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The Passing of Extraterritoriality in Siam

Francis Bowes Sayre

These articles are reprinted from the ATLANTIC MONTHLY, November, 1927, and the AMERICAN JOURNAL OF INTERNATIONAL LAW, January, 1928, at the request of the Research Committee of the American Council of the Institute of Pacific Relations.



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SIAM'S FIGHT FOR SOVEREIGNTY

BY FRANCIS BOWES SAYRE

"Siam's Fight for Sovereignty," through the courtesy of Mr. Sayre, is reprinted with the consent of the publishers from the ATLANTIC MONTHLY of November, 1927, and "The Passing of Extraterritoriality in Siam," with documentary material, through the courtesy of Mr. Sayre, is reprinted with the consent of the publishers from the AMERICAN JOURNAL OF INTERNATIONAL LAW of January, 1928, both at the request of the Research Committee of the American Council of the Institute of Pacific Relations.

I

Since Marco Polo first told of the far lands of Cathay, one trading nation after another has sought through peaceful means or through force of arms to capture the coveted trade of the Orient. The efforts of British merchants to force their way into China culminated in the Opium War and the Treaty of Nanking in 1842, which opened up the more important Chinese coast cities to foreign trade; additional treaties speedily followed, imposing on China the system of extraterritoriality for the protection of Western merchants. In 1853 Admiral Perry's dramatic appearance in Japanese waters marked the beginning of Western trade in Japan; and soon thereafter Western treaties were made with the Shogun imposing a similar system of extraterritoriality upon the newly awakened Japanese nation.

Even Siam, hidden away between India and China, was not overlooked. In 1855 Great Britain, in order to foster its growing trade with Siam, persuaded the Siamese King to sign a new treaty which was destined to have profound and far-reaching effects upon the development of his country. The treaty required that "all British subjects coming to Siam shall receive from the Siamese Government full protection and assistance to enable them to reside in Siam in all security and trade with every facility," and provided that all British subjects in Siam should be exempt from the jurisdiction of Siamese courts and that Siam should never raise its import tariff on English goods beyond three per cent. Neither of these provisions was felt to be burdensome at the time; consular jurisdiction seemed a measure wisely framed to meet the exigencies of a day when Siamese courts knew nothing of Western justice or Western ways, and a three-per-cent import tariff was then amply sufficient to provide for the simple needs of the undeveloped state. But unhappily the negotiators of this one-sided agreement had neglected to insert any time limit for the duration of the treaty; nor was any method provided for abrogating or modifying its provisions except with the consent of both parties.

What Siam had granted to Great Britain she could not well refuse to other powerful states. Between 1856 and 1870 similar treaties were made with the United States, France, Denmark, Portugal, the Netherlands, Germany, Sweden and Norway, Belgium, Italy, Austria-Hungary, and Spain.

All of these were closely modeled on the British treaty; all were without time limit. The restrictions were irrevocable and eternal.

During the last third of the nineteenth century Siam underwent a remarkable transformation. Under the intelligent and able leadership of King Chulalongkorn, railroads were built, telegraphic and mail communication with the outside world established, irrigation projects undertaken, slavery and gambling abolished, Western education introduced, the entire government reorganized and modern ministries of state created, an adequate system of law courts established, and a royal commission appointed to prepare codes of law based upon the best Western models. By the opening of the twentieth century Siam had become a modern state aquiver with Western progress. Internationally she was prepared to take her place in the Family of Western Nations.

With her profound transformation the conditions under which the early treaties had been made were for the most part swept away; but the treaty restrictions remained unchangeable. Not only remained—through a series of harsh interpretations their provisions were rendered still more onerous. The clauses providing that foreigners should be tried by their own consuls, originally designed for the mutual convenience of both foreigners and Siamese, were interpreted so as to give foreigners exemption not only from Siamese courts but also from any Siamese legislation which was unacceptable to foreign wishes. Even so, had the exemptions been confined, as they were originally intended, to Europeans, the situation would have been more tolerable. Unfortunately the Western nations insisted on including within the exemptions many thousands of Asiatics, inhabitants of European colonies in Asia, and therefore in point of law European subjects. The inclusion of these native races, not bred in a European civilization, was without inherent reason or sound justification, and its tendency was to arouse in many Asiatics resident in Siam a feeling that Siamese law could be disregarded with impunity. Thus Mohammedans from Malaya, Tamils from India, native races from the island of Java, Chinese from the Portuguese Colony of Macao, Burmese, Cambodians, Annamites, all gained exemption from Siamese courts and to a certain extent from Siamese law, even though dwelling permanently in Siam. So convenient and profitable did this exemption become that Chinese and even in some cases Siamese began to apply for and obtain enrollment in the foreign legations as “protégés” of the treaty nations.

Thus excluded from administering law and punishment to an ever widening circle of foreign subjects and protégés, Siam began to find that no important law directly affecting European subjects or protégés could be put into force without first gaining the consent of the foreign offices in Europe. When Siam passed a General Education Law providing for universal compulsory education, a certain European nation refused to accept it because it offended the susceptibilities of its Mohammedan subjects in that it com-

pelled girls to go to school during the sacred month of Ramadan, and as a result, with respect to all such children, the law could not be enforced. Similarly the law for the protection of trade-marks has remained since its promulgation a dead letter because infringements were found to be chiefly by foreigners, and Siam could not induce all the Treaty Powers to accept it. The subjects of one of them were profiting too greatly from its infringement. Even laws so obviously desirable as proper police regulations for the correction of abuses in Bangkok often could not be enacted or could be enacted only after the most discouraging delays because of the extreme difficulty of winning the unconditional approval of a dozen different foreign legations.

The treaty exemptions, furthermore, furnished a ready refuge for wrongdoers. If Wu Sung had arranged for a particularly valuable consignment of opium to be smuggled in across the northern frontier, or if Abdul Razim desired to run a gambling shop without risk of police interference, each would arm himself with foreign papers as a prudent man should.

The financial provisions of the early treaties were equally intolerable. The pushing of widespread education demands the expensive training and paying of thousands of teachers. The development and stimulation of the agricultural resources of an undeveloped country demand large and increasing expenditures. An efficient administration of justice demands highly trained and adequately paid judges. Policing becomes more expensive as the amount of police regulation increases. Progress costs money. It began to be evident that Siam's continued progress could be just as effectively menaced by the inability of the state to finance further works of improvement because of the fiscal restrictions of the early treaties as by its inability to assume jurisdiction over foreigners. If Siam's progress was to continue, it became clear that the old treaties must go.

Yet there seemed to be no possible way. Suggestions, requests, entreaties, brought no results. Since the treaties, written in the interests of the traders, contained no time limit and no termination clause, Siam was helpless. Japan had finally succeeded in freeing herself from very similar treaty restrictions by proving the possibilities of her military power in the Chino-Japanese War. Siam did not possess the military resources to make such a solution possible, even were it desirable.

II

In 1907 Siam had succeeded in obtaining from France a treaty providing that French Asiatic subjects and protégés should become subject to the jurisdiction of Siamese courts. But for this concession a heavy price was paid. Siam had to agree that henceforth French Asiatic subjects and protégés throughout the whole of Siam should be entitled to all the rights and privileges enjoyed by Siamese subjects. Furthermore, French consuls were given the right to evoke from Siamese courts and to try themselves all cases

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without price." It was the new note in international diplomacy; justice and international right meant more than empty words.

In 1920 President Wilson gave to Siam the treaty which he had promised. Without compensation and without secret understanding of any sort, America, recognizing the efficient administration of justice which Siam had achieved, surrendered all rights of extraterritoriality, provided only that the American consul should have the right, up to five years after the promulgation of the last of the Siamese codes of law, to evoke out of the Siamese courts any case involving American citizens should this seem necessary in the interests of justice. Although as a matter of fact the right of evocation under the American treaty has never been exercised, this wise provision furnished to American citizens a guaranty against possible judicial abuse and one which Siam could gladly give because of her confidence in her own courts. Furthermore, the new treaty abrogated the earlier American treaty of 1856 in its entirety; and America, recognizing Siam's right to fiscal autonomy, agreed that Siam should have the right to impose any tariff she pleased against American goods, provided that all the other Treaty Powers would agree to similar provisions without compensation or price. The new treaty was made terminable after a ten-year period upon one year's notice given by either party, and it was expressly provided that such termination would not revive the former treaty. Through America led the path to freedom.

III

After the American treaty had been signed, Siam again approached Great Britain and France and requested each to follow America's lead. Great Britain replied that until the other Powers had gone as far as she had in the treaty of 1909 any application for further treaty revision "would appear to be premature." France made favorable replies, but little seemed to come of them. Three years passed with the goal apparently no nearer. A new treaty with France involved Siam's relations with her Eastern neighbor, French Indo-China; and the difficulties of the problem were increased by the political situation in Hanoi and by France's anxiety not to give offense to Indo-Chinese susceptibilities. Ultimately it was agreed that problems concerning Indo-China alone should be excluded from the main French treaty and should form the subject of a separate French convention negotiated directly between Bangkok and Hanoi. The Quai d'Orsay then placed the negotiations for the new French treaty in the hands of the French Minister to Bangkok, a forward-looking man thoroughly conversant with Indo-Chinese opinion. After his arrival in Bangkok early in 1924 negotiations were pushed in earnest.

In the meantime the system of extraterritoriality in practice seemed more and more unjustified and vexatious. As a result of the war, Germany and Austria had indeed lost their treaty rights; but ten European Powers,

deaf to every plea, still insisted on their legal rights, and unless Siam could persuade each in turn without price or compensatory benefit to surrender them, no feasible way of escape lay open. It seemed clear that it would be impossible to accomplish such a task through ordinary methods; the only practicable road to success, if success were possible at all, lay through direct personal work in the various foreign offices in Europe. Because of the unavoidable ignorance of responsible officials in European foreign offices as to actual conditions in Siam, and the natural disinclination of European representatives living in Bangkok to surrender existing privileges, long-distance negotiations at Bangkok would block success at the very outset.

These ideas had the active support of the able and energetic Siamese Minister for Foreign Affairs, Prince Traidos Prabandh, a man of wide diplomatic experience in both Europe and America. King Rama VI graciously entrusted the fortunes of this project, so vital to Siam, to the keeping of the Adviser in Foreign Affairs, who, armed with a roving commission, was to sail from Bangkok in the autumn of 1924 and, in conjunction with Siam's diplomatic agents in each country, to spend the ensuing year seeking to convince one after another of the foreign offices of Europe of the wisdom of giving up their existing rights in Siam.

It was our great hope that the French negotiations could be brought to a successful termination and the treaty signed before our departure, but as each difficulty was overcome new obstacles arose, and every new obstacle caused fresh delays. Nevertheless, by the end of the summer, agreement had apparently been reached on the treaty draft. France was to renounce all the provisions of former treaties except those which concerned Indo-China, and to grant to Siam judicial autonomy subject to a limited right of evocation and fiscal autonomy on the same lines as in the American treaty. Most important of all, the new treaty was to be terminable after ten years by either party. When the time came for our departure from Bangkok we supposed that everything was settled.

IV

Upon reaching Paris early in December 1924, however, to our dismay we found the treaty apparently as far from settlement as ever. At our first meeting with the French Minister to Bangkok we discovered that new questions had arisen; the discussion of certain underlying principles revealed sharply diverging interpretations maintained by the French and the Siamese Governments; and to the French interpretation the Siamese Government found itself quite unable to accede. Negotiations must be taken up afresh. Several weeks of anxious, intensive work followed. By the middle of January the French Foreign Office finally agreed to accept a formula satisfactory to Siam, and also gave its consent to the insertion of an unusual and sweeping arbitration clause by which both parties agreed that, in default of settlement by diplomatic or arbitral means, all questions

arising between them should be settled by the Permanent Court of International Justice in conformity to the principles of the League of Nations. Even questions affecting national honor and vital interests were not excepted. After complete agreement on the treaty draft had been reached among ourselves, the text was laid before the French Cabinet and its consent won. Finally a date—January 31—was actually set for the signing. Success seemed at hand.

During the ten days' interval while the treaty text was being printed preparatory to the signing, we proceeded to The Hague to open negotiations for a new Dutch treaty. Three days before the date set for the signing of the French treaty, out of a clear sky came a telegram from Paris saying that the French Foreign Office had just received cabled word from their Chargé d'Affaires at Bangkok that an outrageous and murderous attack had been made upon the wife of one of the French legal advisers in Siam and the treaty therefore could not be signed. The news burst like a bombshell.

We rushed back to Paris heavy of heart and cabled to Bangkok for a full report. For several critical days the outcome hung in the balance. What we most feared was a hostile newspaper campaign in the French opposition press, which might easily have killed the treaty. Bangkok's cabled reply, however, gave some room for hope. The attack had been made without malice by an irresponsible individual too drunk to know what he was doing. Exactly similar attacks might have happened on the streets of Paris or New York.

But the difficult task remained of convincing the French Foreign Office of the truth of these facts in the face of an adverse report from the French Chargé at Bangkok, and of doing so without undergoing the long delays incident to an ordinary judicial trial. Until the French treaty was signed there was little hope of securing other treaties. It was not enough that the French Foreign Office had agreed to ask for no indemnities. For the sake of the other treaties France must be persuaded to sign the new treaty forthwith in the very face of this unhappy incident, and to sign it without additional demands or modifications. Fortunately the affair had so far been kept out of the French press; but the downfall of the Herriot Ministry was already threatening, and the Foreign Office feared that if the treaty was signed in complete disregard of such an incident the opposition press might still publish the story in an exaggerated form and cause the overthrow of the Government. Followed anxious days, discussions, lengthy cable dispatches, persuasions, proposals and counterproposals. For a week the outcome lay in the lap of the gods. In the end Siam's efforts prevailed. France agreed to sign the treaty forthwith, and on February 14, at one o'clock, Premier Herriot as Minister for Foreign Affairs, and Prince Charoon, the Siamese Minister, attached their signatures to the document that meant so much for the future of Siam. Victory, after months of uncertainty and struggle, had come at last!

The delay in getting the French treaty signed prevented the opening of British negotiations until late in February. The outlook in London was discouraging. The British Minister to Bangkok, who had been in London in conference with the British Foreign Office, had just departed for Siam. The British Labor Government, which had on several occasions shown a friendly interest in Siam, had been overthrown and succeeded by a Conservative Government. Furthermore, when, several months before, the Siamese Minister of Foreign Affairs had approached the British Government suggesting a treaty revision, Great Britain had given a noncommittal reply, but requested that if conversations should be opened they should be carried on in Bangkok, a request which the Siamese Minister felt unable to refuse. Altogether the situation seemed far from hopeful.

Mr. Austen Chamberlain, in our opening interview at the Foreign Office, presented the British point of view with great frankness and fairness. The United States, he said, could afford to surrender existing treaty privileges in Siam, because American trade there was, comparatively speaking, nonexistent. With Great Britain the situation was very different. Over eighty per cent of the entire Siamese export trade was to British territory, and some sixty-seven per cent of Siam's imports were from British territory. If Siam should be released from the three-per-cent tariff restriction and should suddenly impose a heavy import tariff, great hardship would result to the British merchants concerned. For this reason, while Great Britain might be willing to agree to a moderate increase in the existing three-per-cent restriction, she could not feel justified in granting to Siam complete tariff autonomy. Furthermore, British trade in Siam had assumed such substantial proportions that Great Britain could not afford to take the risk of jeopardizing her commercial interests in Siamese law courts without adequate protection; the presence of European legal advisers constituted the surest guaranty of such protection. For these reasons, Mr. Chamberlain confessed, it would seem premature at this time to surrender the existing treaty privileges.

These arguments seemed, in the light of immediate interests, difficult to answer; nevertheless one could not but feel that in the long view Great Britain would be making a mistake in taking such a position. To the reasons for this Mr. Chamberlain listened with an uncommonly open mind; and he attentively considered our suggestions for securing practical and adequate protection for British interests in Siam by methods so framed as to avoid infringing Siamese sovereignty or wounding the national pride of the Siamese.

At the end of an hour's talk Mr. Chamberlain had convinced us of his sincerity and his fair-mindedness. "We had made up our minds to refuse the things you ask," he said. "But you have put a new light upon the

situation. What you propose seems to me reasonable and fair. If you can convince the experts and heads of departments of the Foreign Office, of the Board of Trade and the Department of Overseas Trade, of the Colonial Office and of the Indian Office—if you can convince them as you have me, while I can't make any definite promises, I don't see why we shouldn't be able to enter upon negotiations along the line you propose." Siam had won her fighting chance!

A day was appointed in the following week for Siam to argue her case before the assembled representatives of the several ministries concerned. In the meantime our concrete written proposals were submitted to the various government departments, and were further explained and urged in intimate personal conferences with those who were particularly influential.

On the appointed day we met with the assemblage of British representatives around a long table in the British Foreign Office. Everything depended on the outcome. It was clear that, if Great Britain refused to give Siam a new treaty, Italy would likewise refuse. Also Portugal and Spain, and probably Denmark, Norway, and Sweden. We discussed the British position in Siam from almost every angle; the British experts showed by their searching questions how carefully they had studied our proposals and suggestions, and for a whole afternoon, amid the rapid fire of question and answer, the tide of battle hung uncertain. All forms of diplomacy had been dropped; with utter frankness we sought to reach the fundamental truth. We endeavored to explain the weak as well as the strong points of our proposals; and the British representatives were equally frank and above board. At the end of the day we saw eye to eye, and the British Foreign Office said, "We'll give you a treaty along the lines which you propose."

Followed a month's intensive work of hammering out a draft which would relieve Siam from the old, unjust restrictions and yet which would not leave British interests unprotected. It was agreed to wipe away all the former treaties, and to replace them by a new General Treaty and a comprehensive Commercial Treaty framed in the new spirit along the lines of our initial proposals. We held numerous meetings with assembled representatives of various British offices and found our minds clashing over many technical details and questions of minor importance. For instance, in connection with the treaty provision which required the payment of drawbacks on the reëxport of goods not consumed in Siam, the Indian Office desired a provision releasing Siam from having to pay drawbacks on filled gunny bags but forbidding the imposition of an import duty on them in excess of one per cent. To this Siam could not agree; for her main export is rice, which is handled in gunny bags, and should the price of foreign gunny bags be greatly advanced, Siam might one day have to manufacture her own, and temporarily impose a moderate duty exceeding one per cent. It was therefore necessary to find a formula which would satisfy the Indian Office and yet which would not saddle Siam with an injurious restriction. Simi-

larly, provisions respecting the general granting of forestry concessions and oil rights must be dealt with in a way such as would not hamper Siam's future development of these industries. Intricate legal problems arose over the rights of children born in Siam whose parents were natives of Burma or of British protectorates; questions arose as to the probate of estates of British subjects dying in Siam. The position of India and the self-governing British Dominions with regard to treaty rights and privileges in Siam opened up fresh complications and problems. These and a hundred other questions furnished many contentious points; yet never once during the course of the negotiations was there resort to subterfuge or concealment. We sought a common object, and in mutual whole-hearted confidence hurdled all obstacles which lay in the path.

By the end of March we had provisionally agreed upon drafts which embodied even more than we had originally planned to ask. Without compensation Great Britain agreed to surrender all her existing treaty privileges in Siam and to recognize in precisely the same terms as in the American treaty Siam's complete right to judicial and fiscal autonomy. The old treaties had been irrevocable and eternal; the new General and Commercial Treaties were each made terminable after ten years by either party. Siam in return agreed not to impose any customs duty in excess of five per cent *ad valorem* upon textiles, upon iron, steel, or manufactures thereof, or upon machinery manufactured in British territory and imported into Siam; but this undertaking was limited to ten years after the coming into force of the treaty, after which Siam's hands were free. In short, Great Britain agreed that henceforth British influence in Siam should be built upon Siamese goodwill rather than upon irritating and irrevocable treaty restrictions. It was a farseeing step for Britain to take. The provisional treaty drafts were mailed to Bangkok to receive the detailed consideration of the Siamese Government and the comments of the British Minister to Bangkok; the five or six weeks which must elapse before cabled replies could come would afford an opportunity to push negotiations in other countries.

During the course of the British conversations, negotiations with the Netherlands Government were pushed with all possible speed; the night boat across the Channel made it possible often to spend alternate days in London and The Hague. The Netherlands were generous in their response to Siam's appeal; friendly understanding and mutual confidence smoothed away all difficulties. The questions raised by the Netherlands treaty were far less complicated and fewer than those raised by the British; consequently, as the British draft took shape the draft of a new Dutch agreement progressed even more rapidly. Therefore by the time the British drafts were completed a new Netherlands treaty text had also been agreed upon, closely following the American model. The day following the dispatch of the British text the Netherlands draft was mailed to Bangkok. In the opening days of April we took the train south to begin negotiations with Italy.

VI

At Rome Siam's case was urged, first before individual, influential officials of the Italian Foreign Office, and later before a formal group appointed to consider the matter. Italian interests in Siam are comparatively small; and Italy saw little reason for changing the existing situation. The progress of the negotiations seemed so slow and uncertain that a conference with Premier Mussolini was arranged. At the last moment Signor Mussolini was prevented by illness from keeping the engagement. Time pressed; and, leaving Rome, we returned to Paris and took the *Sud Express* for Lisbon.

A new Portuguese treaty was of particular importance to Siam; for, apart from gaining the right of fiscal autonomy, Siam is embarrassed by large numbers of Chinese residents who claim exemption as Portuguese protégés by virtue of alleged birth in the Portuguese colony of Macao near Hongkong. Proof of the falsity of each individual claim by patient investigation and the securing of contrary evidence fails to deter others from indulging in the same practice; apparently this is only one of the inevitable and incurable outgrowths of the system of extraterritoriality.

The political situation in Lisbon is peculiar. Ministry succeeds ministry with startling rapidity; the regularity of the process is broken only by revolution. A minister's hearty support may prove valueless with his removal a few weeks later. The frequent changing of cabinet positions concentrates power in the hands of the permanent officials. Yet these cannot be reached except through their minister. Accordingly we first held conferences with the Minister of Foreign Affairs. After his support had been gained, no one could have been more courteous to us than he; yet, as we well knew, the real battle still lay before us.

Of one man we had been warned on several sides; if the path of our treaty led through his office, we were told, our quest would prove well-nigh impossible, for he was infinitely difficult to win and, once having made up his mind, adhered unwaveringly to his decision. Our hopes fell when we discovered that he headed one of the important divisions of the Foreign Office without whose sanction no treaty could pass. After holding conferences with several of the other heads of divisions with varying measures of success, we secured an appointment to confer with him on the last day of April.

It was with rather gloomy forebodings that we walked down the long, highly ornamented corridors to the former bedchamber of the King, which with the coming of the Republic had been converted into an office. But to our delight we found that here was a man of brains and character who had really studied and digested our proposed treaty draft, and was prepared to act. We entered into detailed discussions with him, and that very afternoon agreed to various modifications in the draft; and when we parted we realized that of all in Lisbon he best understood the point of view of Siam. He

proved our staunchest friend; when seemingly insurmountable obstacles arose in other divisions of the Foreign Office, he championed our cause and overcame the opposition. Had it not been for him, Siam in all probability would not have won the treaty.

In the end the provisional consent of the various officials to a treaty closely following the American model, and also embodying a general arbitration clause, was won. The draft could not be finally approved, however, until it had gone before various bureaus and legislative committees. Our friends in the Foreign Office promised to expedite matters as much as possible and to defend the draft if necessary; in the meantime negotiations could be opened in Spain.

VII

In Madrid good fortune favored us. It chanced that on the day of our arrival the King was to attend the races; the American Ambassador invited us to accompany him to the gala luncheon at the race course, where we were introduced to General Primo de Rivera, then President of the Military Directorate and in supreme power, and to others close to His Majesty. That very afternoon, thanks to the American Ambassador, His Majesty heard about our Siamese treaty.

Next day there followed a conference with the all-powerful General Primo de Rivera; and, once his whole-hearted consent had been won, success was assured. He promised us the treaty and appointed a commission to carry on the negotiations, placing at its head his nephew, Señor Fernando Espinosa de los Monteros, the acting head of the Spanish Foreign Office. Every evening we gathered around a table at the Foreign Office in a large red room resplendent with fine old paintings; we modified only in quite unimportant details the original treaty draft as presented to General Primo de Rivera. In little more than a week the work was done and Spain had agreed to the surrender of the old treaty and the acceptance of a new one closely following the lines of the American treaty. The commission good-naturedly laughed at our informality and our continual plea for speed. "You Americans would like to make a treaty over the telephone," they exclaimed. But they never failed in their kindness or in their generous and sympathetic understanding of Siam's difficult position.

From Madrid we returned to Paris, and thence on to The Hague for the final ceremonies attendant upon the signing of the treaty with the Netherlands. On June 8 the Dutch treaty was signed by Dr. van Karnebeek, the Netherlands Minister of Foreign Affairs, and Prince Damras, the Siamese Minister to The Hague. On the same day disturbing news arrived from London. The British Foreign Office wrote that the British Minister in Bangkok had raised objections to the draft of the new treaty. Apparently local British opposition in Bangkok was strong. The Foreign Office wrote to say that, in view of their Minister's cabled report, after further mature

consideration they must ask for certain additions and modifications to the draft. A glance at the changes asked for caused one's heart to sink. To certain of them Siam could not accede. Did this, then, spell the end of all our hopes?

We rushed back to London, realizing that the fight there must be fought again in the face of the adverse report. Again a formal meeting was arranged between ourselves and the experts and representatives of the Foreign Office, the Board of Trade, the Indian Office, and the Colonial Office, together with the former British Consul-General in Siam, who had been summoned for the occasion. For a whole afternoon the battle raged. We sought to explain why Siam could not accept certain of the proposed modifications and why Great Britain should not make the mistake of requesting them; why some of the objects sought were quite unnecessary and how others might be attained in more practicable ways. It was one against many, and the battle never flagged. "You reminded me of Daniel in the lions' den," exclaimed one of the British representatives at the end of the afternoon. But, when the smoke of battle cleared away, the sun was shining. Great Britain had agreed to withdraw all the objectionable modifications, or to alter them to a quite unobjectionable form. The British treaty was won. During two more all-afternoon sessions such difficulties as remained were ironed out; and in individual conferences during the next ten days solutions were found for several highly technical but extremely difficult legalistic problems, and in addition a Treaty of General Arbitration was negotiated and agreed upon. By the middle of July the General and Commercial Treaties were ready for signature. We hurried down from Stockholm for the signing; and on the afternoon of July 14 Mr. Chamberlain and Phya Prabha Karavongse, the Siamese Minister to London, unostentatiously attached their signatures and seals to the documents of such vital importance to Siam. The new British treaty had come into being.

VIII

In the meantime we had been turning our attention to the Scandinavian countries. Denmark, Norway, and Sweden still remained; also Italy. Should any one of these countries refuse to give up its existing rights, Siam would remain bound by the old three-per-cent tariff restriction; for all the new treaties contained the provision that Siam should be free to raise its tariff only after every one of the nations holding irrevocable treaty rights had freely and without compensatory benefit agreed to surrender them. Apart, therefore, from the existence of considerable Scandinavian shipping interests in Siam, each one of these treaties was a matter of large importance to Bangkok.

In Copenhagen, in Stockholm, and in Oslo, where Siamese interests are in the hands of Prince Vipulya, accredited to these three capitals, again we encountered an open-mindedness, a sympathetic understanding for the

plucky struggle of a small nation, and a readiness to translate sympathy into practical action which showed that, in spite of much that is said to the contrary, European foreign offices are not all closed to liberal sentiments. All three of the Scandinavian countries declared themselves ready to meet with Siam's desires and to give new treaties. In Denmark and Sweden, through the help of influential friends at court, negotiations were expedited and final agreement came to on the drafts of the treaties, which were to be signed as soon as the parliamentary committees could formally signify their approval in the early fall. Norway also promised a new treaty along the same general lines, and quickly agreed in principle to the draft which we proposed.

In Oslo came word from Lisbon reporting that our Portuguese treaty had gone on the rocks. To protect her port and Madeira wine, in which her wealth largely consists, Portugal insists on the insertion in her treaties of a clause for the punishment of all who sell wine labeled "Port" or "Madeira" not coming from Portugal or the island of Madeira; in the Siamese treaty the formula had been considerably modified so as to avoid possible difficulties with British and French merchants selling these wines in Bangkok. The formula thus modified had run afoul in one of the Portuguese legislative committees; the treaty had therefore failed to pass and there seemed a not improbable chance of its total shipwreck.

During the four days' train journey from Oslo to Lisbon urgent cables were dispatched to Bangkok and various telegrams exchanged with Lisbon, so that by the time we reached the Portuguese capital the way had been opened to agree on a new formula which would not endanger Siamese interests and yet would prove acceptable to the various groups in Portugal. Once in Lisbon, in intimate contact with Foreign Office officials who had become personal friends, it was not difficult to agree upon a formula; but a new difficulty then confronted us. The Minister of Foreign Affairs with whom we had negotiated in April had been succeeded by another; his successor had been deposed as a result of a revolution, and so far no Premier could be found able to control a majority of the Chamber. As a result there was no existing Minister of Foreign Affairs by whom the treaty could be signed! We had, as it happened, come down from Paris on the train with the man who it was hoped would be able to form a Government. He ultimately succeeded in doing so; and one of the earliest acts of the newly appointed Minister of Foreign Affairs was, together with Phya Sanpakitch, the Siamese Minister to Italy, Spain, and Portugal, to sign the treaty with Siam.

IX

It was then late in July; we stopped a few days in Madrid to give to the draft of the Spanish treaty its final touches preparatory to its signature, and hurried on to Rome, reaching there the first week of August. The Italian treaty was the last one remaining, but the way to its attainment seemed

beset with difficulties. Since the preceding April various telegrams had been sent to the Italian Foreign Office urging the hastening of negotiations; but these had failed to bear fruit, and a bare three weeks now remained before it was necessary for me to return to America. Unfortunately Rome was in the throes of intense summer heat, and the majority of Foreign Office officials were away on their vacation. Apparently the only hope of success was to go straight to Premier Mussolini, convince him of the importance of Italy's not being the single nation to bar Siam's right to full fiscal autonomy, and urge top speed. With his aid it might be done; he works with the speed and precision of a steam turbine, and by the force of his compelling, dominant will drives the Italian machinery of state at a pace that it has never known before.

The Marquis Paulucci de' Calboli Barone, the Chef du Cabinet of Premier Mussolini, seemed considerably impressed by the situation. At the close of our discussion the Marquis expressed the sincere wish that Italy might meet with Siam's desires and that the new treaty might be negotiated at once, especially since the Siamese Government had felt obliged to ask for the withdrawal of negotiations were the draft not agreed to before my departure. "But," he added, "unhappily we are blocked by physical impossibility. The Foreign Office officials are away on their holidays. There is no one in Rome competent to negotiate the treaty." "But," we asked, "can they not be recalled?"

This was a question which only the Premier could decide. The Marquis Paulucci promised to take it up with him immediately. For three days we waited, holding our breath; on the fourth, word came from the Italian Foreign Office that telegrams had been sent out to various Foreign Office officials calling them to Rome, that a Treaty Commission had been appointed, and that they would meet with Siam's plenipotentiary on the following Wednesday, August 19. That gave just nine days before I had to leave Rome to catch my steamer for America. Again the gods were favoring us and we had a fighting chance.

During the intervening days we got into personal touch with certain of the Italian representatives on the newly appointed Treaty Commission and talked over several of the more vital issues. None of the Commissioners thought it possible to conclude the negotiations within a week, yet we felt that if there was a will a way could be found, and we mapped out a programme accordingly. The first clash came over the question of the language to be used for the treaty text. The Italian Commissioners wanted it to be in Italian. At our first meeting, however, they agreed to accept both an English and an Italian text, with the English one controlling; and we then proceeded to formulate a programme of action for the ensuing week. Siam agreed to prepare and present to the Italian Foreign Office on the following day a treaty draft in English and Italian; the Italians were to study this and meet with us two days later to discuss counterproposals; and every

day thereafter the Treaty Commission would sit with us until the work was completed.

Evidently Premier Mussolini had issued orders that things were to move, for this programme was followed out to the letter. During all those crowded days and nights—for there were times when the lights in the Siamese legation burned till morning—there was never an hour wasted. The Treaty Commission, at considerable personal self-sacrifice, held long, protracted sessions with us, discussing our proposals, arguing against some of them, presenting counterproposals. We defended and maintained our draft in all the essential points, but yielded wherever possible on the nonessentials and on all matters of pure form. By the following Monday we had apparently come within sight of final agreement. The Italian Commission seemed ready to accept a text which was thoroughly satisfactory to Siam. Nevertheless, Italian desires remained unsatisfied as to five remaining points, which Italy felt a *sine qua non* for the granting of the treaty, but to which Siam could not agree. For two days the debate raged. At length the Italians on three of the points agreed to accept modified formulas phrased in such a way as not to endanger Siamese interests, but on the other two deadlock resulted. In the end the only course open was to refer the impasse to Premier Mussolini, who alone was responsible for the final decision.

On the day before our departure from Rome we were ushered into Signor Mussolini's office at the Ministry of Foreign Affairs. In the quiet of a palatial room lined with radiant old Italian pictures he arose from a desk in the corner to receive us. As he advanced I could not but wonder at the gentleness of his eyes, set in a powerful, clean-cut face—a face which with all its strength had nothing in it of hardness. He spoke simply and to the point. He told us that Italy had always felt friendship for Siam, and that in token of that friendship Italy would withdraw the fourth and fifth demands. The last treaty, then, was won! After seventy years of extraterritoriality Siam was to be once more autonomous and free.

X

All the new treaties, including one with Belgium negotiated in Bangkok, are now signed and ratified; and extraterritoriality in Siam is a thing of the past. With its passing, and the removal of the old fiscal restrictions, new vistas open out. How has Siam been preparing herself for the new period into which she is entering? Will she be able to exercise wisely her new power?

King Rama VI died in November, 1925, soon after the completion of the treaty negotiations. During the close of his reign expenditures were exceeding the national income and a financial crisis loomed ahead.

With the accession to the throne of his brother, King Prajadhipok, vigorous measures were taken. Instead of negotiating foreign loans or increasing taxes, the new King adopted the more salutary method of eliminating need-

less and extravagant expenditures. He required each ministry to prune away waste, to dismiss supernumeraries, to abolish sinecures. Economy became the watchword of the day. Bravely he led the way by reducing at a single stroke the revenues allowed for royal expenditure from nine million to six million ticals. His earnestness was irresistible. As a result Siam has turned its deficits into surpluses; and the present intention is deliberately to budget for surpluses so as to build up substantial reserves. In view of the great natural wealth of the country, in view of the increased revenues made possible under the new treaties by slight increases in duties on widely consumed articles, in view of the practicability of improving the rice crops and introducing other secondary crops, Siam's financial future looks very bright.

In constitutional matters a similarly vigorous policy has been pursued. At the end of the last reign the sovereign had been more and more successfully isolated from the best counsel of the realm by a group seeking its own ends. One of the new King's first acts was to dismiss from the high offices which they had attained the leaders of this group. Simultaneously he created a new constitutional body to give to the sovereign advice on high matters of policy; this Supreme Council of State, composed of five men, was small enough to impress responsibility on each of its members. Upon it he placed some of the ablest and most sincere of Siam's leaders. By this adroit and statesmanlike move not only was an avenue of access to the King opened up, but Siam gained what she badly needed—a single body to help coördinate and unify the work of the separate ministries.

Troublous constitutional problems still remain. His Majesty keenly appreciates the difficulties and dangers of absolute monarchy; he has a sincere desire to democratize the government and to shift part of its responsibilities to the shoulders of the people. But a parliament uncontrolled by an intelligent and interested electorate is a far more dangerous engine of tyranny than an absolute monarch; and, until the groundwork can be built by pushing forward the work of general education, the parliamentary form of government must wait. Programmes, nevertheless, can be formulated looking toward this goal; and in the meantime the King is hoping to develop the people's political experience by creating popularly elected municipal councils in some of the larger cities.

Siam's judicial problems are already well in hand. The patient and thorough work of the Code Commission has borne fruit in able codes of law based on the best European models. Five years will probably be required for the completion of these codes. The most important part of the judicial groundwork yet remaining is the teaching and training of Siamese judges.

Further progress demands special activity in two directions—the one the vigorous pushing forward of general education, which is made exceptionally difficult by lack of trained Siamese teachers and Siamese textbooks; the other the stimulation of agricultural productivity by standardizing and im-

proving the rice crop and by introducing secondary crops such as tobacco and hemp.

Underlying all else is the problem of how to assimilate the best of Western civilization without being corrupted by the demoralizing forces with which that civilization seems inextricably bound. Of all possible future dangers to Siam perhaps here lies the greatest. Will she be able to incorporate the best from the Occident and yet retain sufficient poise to maintain her own distinctive individuality, to assimilate things Western and yet not be swallowed by the West? Can she prevent religious and moral values becoming subordinated to material ones?

Indeed, Siam has problems a plenty. But these are a sign of progress. Those who have lived and worked in Siam and come to know and love her people have great faith in the Siamese. They will find a way. Siam's star is rising.

THE PASSING OF EXTRATERRITORIALITY IN SIAM

BY FRANCIS BOWES SAYRE

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As a result of the expansion of Western trade during the nineteenth century following the industrial revolution, Western nations, ever eager for the coveted trade of the Orient, and stimulated by the need of finding new markets for their accumulating exports, pushed their insistent way into the Far East with new determination. There followed a series of treaties with Eastern potentates opening up new trading areas and clothing Western merchants with extraterritorial rights roughly similar to those enjoyed by foreigners under the Turkish Capitulations. Thus was born in the Orient the régime of extraterritoriality which in three quarters of a century was destined to become the focus of increasing disturbance and unrest in the Far Eastern world.

Siam did not escape the play of these world forces. British merchants pushing beyond India and Burma found in Siam a country unawakened but with rich possibilities; and in the year 1855 Great Britain secured the signature of the Siamese King to a treaty¹ which marked the beginning of the system of extraterritoriality in Siam. Under the existing Siamese law of that day no foreigners had the right to acquire land or to live permanently in Siam; the earlier Anglo-Siamese Treaty of 1826² had expressly provided that Siamese authorities might deny to British merchants permission to stay in Siam.³ The treaty of 1855 ushered in a new régime. It provided that "all British subjects coming to Siam shall receive from the Siamese Government full protection and assistance to enable them to reside in Siam in all security, and trade with every facility, free from oppression or injury on the part of the Siamese."⁴ Another article⁵ gave to British subjects the right "to trade freely in all the seaports of Siam;" and it further provided that British subjects should have the right to reside permanently in Bangkok or within a certain area defined by the treaty, and under prescribed regulations there to acquire land or construct buildings.

The treaty contained two other outstanding provisions. The treaty of 1826 had provided⁶ that all difficulties should be settled "according to the established laws of the place or country."⁷ The new treaty of 1855 provided

¹ British and Foreign State Papers, Vol. 46, p. 138.

² British and Foreign State Papers, Vol. 23, p. 1153.

³ Article VII.

⁴ Article I of the treaty of April 18, 1855.

⁵ Article IV.

⁶ Article VI.

⁷ Similarly, the treaty of March 20, 1833, with the United States had provided (Article IX) that "merchants of the United States trading in the Kingdom of Siam shall respect and follow the laws and customs of the country in all points."

that "any disputes arising between Siamese and British subjects shall be heard and determined by the [British] Consul in conjunction with the proper Siamese officers; and criminal offenses will be punished, in the case of English offenders, by the Consul, according to English laws, and in the case of Siamese offenders by their own laws, through the Siamese authorities. But the Consul shall not interfere in any matters referring solely to Siamese, neither will the Siamese authorities interfere in questions which only concern the subjects of Her Britannic Majesty." ⁸

The second provision, framed to prevent the reduction of British trade through increased Siamese duties, stipulated that "on all articles of import the duties shall be three per cent;" ⁹ and it was further stipulated that "the tax or duty to be paid on each article of Siamese produce previous to or upon exportation" should be that specified in a long and minute schedule of export and inland duties attached as an annex to the treaty. Both of these provisions were explained and amplified in an explanatory agreement signed the following year.¹⁰

At the time when these two provisions were adopted, no one dreamed that they could or would be used in future years to curb the domestic and foreign policy and handicap the future development of Siam. The trial of a handful of British traders, accustomed to a different law and a different civilization, by their own consul seemed a matter of mutual convenience; and the financial needs of the undeveloped state were amply covered by the revenue from a three per cent. import tariff. The ominous feature of this one-sided arrangement was that the treaty contained no time limit; by its terms it could not be modified without the consent of both parties, and was therefore irrevocable and unending.

It was only natural that other Western nations should demand like privileges; and during the succeeding years, therefore, Siam became bound by a series of treaties closely similar to the British treaty of 1855, supplemented by the explanatory agreement of 1856. In 1856 treaties were signed with the United States ¹¹ and with France,¹² in 1858 with Denmark,¹³ in

⁸ Article II.

⁹ Article VIII.

¹⁰ British and Foreign State Papers, Vol. 46, p. 146. Article II of the supplementary agreement of 1856, explaining the meaning of Article II of the treaty of 1855, stipulated "that all criminal cases in which both parties are British subjects, or in which the defendant is a British subject, shall be tried and determined by the British Consul alone. All criminal cases in which both parties are Siamese or in which the defendant is a Siamese, shall be tried and determined by the Siamese authorities alone.

"That all civil cases in which both parties are British subjects or in which the defendant is a British subject, shall be heard and determined by the British Consul alone. All civil cases in which both parties are Siamese, or in which the defendant is a Siamese, shall be heard and determined by the Siamese authorities alone . . .

"British subjects, their persons, houses, premises, land, ships or property of any kind, shall not be seized, injured, or in any way interfered with by the Siamese."

¹¹ British and Foreign State Papers, Vol. 46, p. 383.

¹² *Ibid.*, Vol. 47, p. 993.

¹³ *Ibid.*, Vol. 50, p. 1073.

1859 with Portugal,¹⁴ in 1860 with the Netherlands,¹⁵ in 1862 with Germany,¹⁶ in 1868 with Sweden and Norway,¹⁷ with Belgium,¹⁸ and with Italy,¹⁹ in 1869 with Austria-Hungary,²⁰ and in 1870 with Spain.²¹ Each of these treaties in varying language imposed extraterritoriality upon Siam. Thus, the American treaty of 1856 adopted²² the language of the British treaty of the previous year; the Portuguese treaty of 1859 provided that:

Any question which may arise between Portuguese and Siamese subjects must be laid before the Portuguese Consul, who, in concert and agreement with the Siamese authorities, will endeavor to settle it amicably; and in case of not being able to do so, civil questions will be decided by the Consul or by the Siamese authority, according to the nationality of the delinquent or accused person, and in conformity with the respective laws. The Consul will never interfere in questions which solely concern Siamese subjects, nor the Siamese authorities in questions solely relating to Portuguese subjects, except in the case of crimes in which the delinquents will be taken into custody by the local authority and handed over to the Portuguese Consul to be punished according to the Portuguese laws, or sent to Macao to be tried there.²³

The Italian treaty of 1868 provided that:

Any dispute or controversy between Italian and Siamese subjects, shall be settled by the Diplomatic Representative or jointly by the Consuls and the functionaries of Siam. Criminal cases shall be adjudged by the Legation or the Consulates, if the delinquent be an Italian, and by the local authorities if he be a Siamese subject. But neither the Legation nor the Consulates shall interfere in matters affecting Siamese subjects only, nor shall the local authorities interfere in questions relating purely to Italian subjects.²⁴

All of the treaties, in addition to the extraterritorial provisions, contained substantially the same fiscal provisions as in the British treaty, restricting Siam to a fixed schedule of duties and preventing her from imposing an import tariff in excess of three per cent. All were without time limit, irrevocable.

In 1868, with the accession of King Chulalongkorn to the throne of Siam, a new era began. Under the leadership of that remarkable king, telegraphic and mail communication was opened up with foreign countries, slavery abolished, railroads constructed, irrigation projects carried out, water supply systems built, modern hospitals erected, and the whole kingdom transformed and quickened with new life and development. The government of the kingdom was radically and completely reorganized, modern ministries

¹⁴ British and Foreign State Papers, Vol. 72, p. 109.

¹⁵ *Ibid.*, Vol. 58, p. 262.

¹⁶ *Ibid.*, Vol. 53, p. 741.

¹⁷ *Ibid.*, Vol. 69, p. 1135.

¹⁸ *Ibid.*, Vol. 59, p. 405.

¹⁹ *Ibid.*, Vol. 60, pp. 773, 783.

²⁰ *Ibid.*, Vol. 61, p. 1308.

²¹ *Ibid.*, Vol. 61, p. 483.

²² Article II.

²³ Article VI.

²⁴ Article IX. See also the explanatory declaration of Dec. 10, 1868. British and Foreign State Papers, Vol. 60, p. 783.

were established, and an efficient system of law courts was set up to administer justice along Western lines. Recognizing the fundamental importance of modern law, the king created a royal commission to study the problem of legal administration for Siam and to draft carefully prepared codes of law based on the best European codes. By the time of his death in 1910, this tireless and able sovereign had completely transformed the old Siam into a progressive, vigorous, modern state.

With the changed conditions, abuses began to make themselves felt. Extraterritoriality fitted well enough an Oriental kingdom innocent of Western law or Western institutions; it did not fit a country with modern courts administering Western law and with a well-developed sense of international responsibility. Yet the European nations insisted on not only maintaining it for their European subjects, but even extending it so as to cover all those born in the Asiatic colonies which they were fast acquiring, since such colonials were in point of law European subjects. As a result, Siam was deprived of jurisdiction over hosts of Cambodians, Annamites and Laos from Indo-China, Javanese, Malaysians, Burmese, Chinese born in Macao or Hongkong, and East Indians, even though residing permanently and perhaps doing an extensive business in Siam. Whatever violations of Siamese law they might commit, Siam was powerless to touch them or their property. They could be tried only in foreign consular courts; these courts in practice not infrequently refused to apply the laws of Siam, and were often presided over by men who had no legal training whatsoever. In addition to these thousands of Asiatic subjects, the treaty provisions were made to include foreign protégés as well; and foreign protection thus came to be claimed not only for subjects born in Asiatic colonies but for such Chinese or other Asiatics as any European Power chose to enroll at its consulate. It was only natural that out of such a system abuses should grow; those desirous of avoiding police interference or arrest—smugglers, gamblers, disreputable characters—often resorted to foreign papers as a wise measure of protection. If, in spite of their precautions, they should be unlucky enough to be caught, they felt confident of more lenient treatment before many of the foreign consuls, who were ordinarily not permitted under their laws to impose any kind of drastic punishment and who were popularly expected to favor their own subjects. There were even times when foreign papers came to be surreptitiously bought and sold at so much a head by underlings in the foreign legations.

The treaties exempted foreigners from the jurisdiction of Siamese courts. The Western nations insisted that these provisions should be interpreted as carrying exemption from Siamese legislation as well, except such as the Western nations might choose to accept. As a result, further progress became increasingly difficult. When Siam passed an education law providing for compulsory general education, its enforcement was prevented in certain communities because one of the Western nations refused to accept

it and therefore objected to its enforcement against its Asiatic subjects. When Siam was asked to adhere to the International Convention for the Protection of Industrial Property she was obliged to confess her inability to do so; for when in 1914 she had promulgated a law for the protection of trademarks and trade-names, she soon found that it was foreigners who were chiefly violating the law, and the practice proved so profitable that not every treaty Power could be induced to accept it, so that the protection of trademarks as required by the international convention was a practical impossibility. Siam began to find herself in a position where she was unable to enforce progressive legislation without first winning the consent of the Foreign Offices of most of the nations in Europe.

Further progress was menaced by the fiscal provisions of the treaties no less than by the jurisdictional ones. From a material viewpoint progress costs money. The spread of education, the organization of an efficient judicial system, the undertaking of increased police regulation, the renunciation of opium revenues, the securing of competent foreign advisers and helpers, all swell current expenditures. For various practical reasons increased revenue from taxation seemed impossible or inadvisable. Normally the situation would be met by increased revenue from tariff. But the fiscal provisions of the old treaties holding the Siamese import tariff down to three per cent. made this impossible. After 1920 the time seemed approaching when further progress might be prevented by Siam's inability to meet its financial cost because of the treaty provisions.

Long before the death of King Chulalongkorn in 1910, Siam had sought in every possible way to free herself from the shackles of the treaty restrictions, but in vain. As a small nation she lay at the mercy of the more powerful European states; and these saw no reason for relinquishing the privileges and advantages which they had secured. By the beginning of the twentieth century, apart from special arrangements for some of the northern states, the most that Siam had been able to attain were agreements with certain of the treaty Powers to prevent the wholesale creation of protégés and to fix definite limits to the groups entitled to foreign protection and exemptions. Thus, under the British agreement of November 29, 1899,²⁵ although Great

²⁵ British and Foreign State Papers, Vol. 91, p. 101. It was agreed that registration should be confined to the following categories of persons:

- "1. All British natural born or naturalized subjects other than those of Asiatic descent.
- "2. All children and grandchildren born in Siam of persons entitled to be registered under the first category, who are entitled to the status of British subjects in contemplation of English law. Neither greatgrandchildren nor illegitimate children born in Siam of persons mentioned in the first category are entitled to be registered.
- "3. All persons of Asiatic descent, born within the Queen's dominions, or naturalized within the United Kingdom, or born within the territory of any Prince or State in India under the suzerainty of or in alliance with the Queen; except natives of Upper Burma or the British Shan States who became domiciled in Siam before January 1st, 1886.
- "4. All children born in Siam of persons entitled to be registered under the third category.

Britain insisted on rights of extraterritoriality for the children of all British subjects, and even for the grandchildren of European British subjects, although born and resident all their lives in Siam, she consented that great-grandchildren of European and grandchildren of Asiatic British subjects should not be entitled to rights of extraterritoriality. Somewhat similar agreements were made with The Netherlands on May 1, 1901, with France²⁶ in 1904, with Denmark²⁷ in 1905, and with Italy²⁸ in the same year. Beneficial as these agreements were, they did not of course check the fraudulent obtaining of foreign papers by misrepresentation or corruption; and although they put a limit upon some of the abuses to which the system of extraterritoriality lent itself, they in no way cured the evils of extraterritoriality itself.

Meanwhile changed conditions in certain of the northern provinces made it necessary as early as 1883 to modify somewhat the strict provisions of the British treaty of 1855. With the opening up of the northern part of Siam, Burmese, Shans and other Asiatics entitled to British protection gradually entered the northern provinces and took up their residence there in increasing numbers. Under the stipulations of the 1855 treaty, this native population was, on the one hand, entitled to all the privileges of extraterritoriality and yet, on the other, strictly speaking, as British subjects they were debarred from residing there at all. To meet the altered conditions for which the provisions of the treaty of 1855 had become unsuitable, a new treaty was made in 1883²⁹ applicable to the northern provinces alone. The problem of jurisdiction over these Asiatic British subjects was solved in a most interesting way. The treaty provided that all cases, both civil and criminal, arising in the northern provinces of Chiengmai, Lakon and Lampoonchi between British subjects, or in which a British subject might be a party as complainant, accused, plaintiff or defendant, should be tried according to Siamese law by a special Siamese court sitting in Chiengmai, presided over by a Siamese commissioner and judge, under the proviso, however, (1) that the British consul residing at Chiengmai should always have the right to be present at the trial if he so desired and to make such suggestions to the judge as he might

No grandchildren born in Siam of persons mentioned in the third category are entitled to be registered for protection in Siam.

"5. The wives and widows of any persons who are entitled to be registered under the foregoing categories."

²⁶ Articles 10 and 11 of Franco-Siamese Treaty of 1904. See British and Foreign State Papers, Vol. 97, p. 961.

²⁷ Article I of Danish treaty of March 24, 1905. British and Foreign State Papers, Vol. 101, p. 289.

²⁸ Article I of Italian treaty of April 8, 1905. British and Foreign State Papers, Vol. 101, p. 409.

²⁹ British and Foreign State Papers, Vol. 74, p. 78. Many of the provisions of this treaty were taken from the treaty of January 14, 1874, between Siam and the Government of India. See British and Foreign State Papers, Vol. 66, p. 537.

think fit in the interests of justice, (2) that the British consul should have the power at any time before judgment to evoke out of the Siamese court any case in which a British subject might be defendant or accused, in which event the case would forthwith be transferred for adjudication to the British consular court at Chiengmai, and (3) that in both civil and criminal cases in which a British subject might be a party, either party might appeal to Bangkok, in which case, if the accused or defendant were a British subject, the final decision on appeal should rest with the British Consul General. In other words, in certain of the northern provinces henceforth Great Britain would allow Siam to apply its own law and to exercise jurisdiction over British subjects on sufferance; but this power would always be subject to Great Britain's right to evoke from the Siamese court any case where the defendant or accused was a British subject, and try it herself, or to appeal from the Siamese judgment and render the appeal judgment herself. It was an interesting solution for a difficult problem; its justification would depend entirely upon the ability of the Siamese courts to administer efficient justice.

Subsequent events more than justified the experiment. The competency of the Siamese courts was evidenced by the remarkably small number of cases evoked under the provisions of the treaty. From the British viewpoint, so satisfactory did the arrangement prove that not only was it continued in force without change and even extended to a number of other northern provinces,³⁰ but twenty six years later, when the British treaty of 1909 came to be written, the arrangement of the treaty of 1883 was extended to all British pre-registered subjects throughout Siam.³¹

The satisfactory nature of this arrangement caused France to adopt very similar provisions in the Franco-Siamese Treaty of 1904.³² Article XII of that treaty, after providing that all French citizens, subjects and protégés in Siam should continue to be exempt from the jurisdiction of Siamese courts, went on to provide that, as an exception in the northern provinces of Chiengmai, Lakon, Lampoonchi and Nan, all civil and criminal cases concerning French *resortissants* (including French *citoyens*) should be brought before the "Siamese International Court," with the proviso that the French consul should have the right to assist in the hearings and to evoke and try himself all cases in which the defendant was French or a French protégé. This so-called "Siamese International Court" was not in fact international at all. It was only a new name for the Siamese tribunal created under the British treaty of 1883, a court created by and entirely within the control of the Siamese Government, presided over by a judge chosen and paid solely by

³⁰ Extended to Muang Nan and Phre by exchanges of notes dated December 31, 1884, and January 10, 1885, and to Muang Than, Raheng, Sawankalok, Sukothai, Utaradit and Pichai by notes dated September 29, October 28, 1896. British and Foreign State Papers, Vol. 88, pp. 33-35.

³¹ Article V of British treaty of 1909. British and Foreign State Papers, Vol. 102, p. 127.

³² British and Foreign State Papers, Vol. 97, p. 961.

the Siamese Government. It was international only in the sense that its jurisdiction was confined to cases in which foreigners were parties and by virtue of treaty provisions foreign consuls had the right to be present at its sessions and to evoke certain of its cases. As a matter of fact, however, under the French treaty of 1904, as under the British treaty of 1883, in practice the right of evocation was exercised only in rare instances. Very similar provisions, also applicable to the northern provinces alone, were adopted shortly afterwards in the Danish treaty of 1905,³³ and in the Italian treaty of the same year.³⁴

Except for these special arrangements covering certain of the northern provinces, however, nationals of the treaty Powers still continued altogether exempt from Siamese jurisdiction. In 1898 Siam had entered into a treaty with Japan³⁵ which granted rights of extraterritoriality to Japanese subjects in Siam, but recognized that the system of extraterritoriality should be a temporary expedient and made it terminable with the completion of "the judicial reforms of Siam," *i.e.*, the coming into force of the Siamese codes of law. In 1899 Siam had signed a declaration with Russia,³⁶ granting each to the other most-favored-nation treatment with respect to jurisdiction, commerce and navigation, terminable, however, by either party at any time upon six months notice. Apart from the special northern arrangements, therefore, Siamese courts were powerless to enforce obedience to Siamese law upon the thousands of British, French, American, Danish, Portuguese, Dutch, German, Swedish, Norwegian, Belgian, Italian, Austrian, Spanish, Japanese and Russian subjects and protégés resident in Siam; and, except in the case of the handful of Japanese and Russians there resident, there seemed no possible way to remedy a situation which was growing every year more difficult.

A new phase in Siam's battle to regain jurisdictional autonomy was marked by the treaty of 1907 with France and that of 1909 with Great Britain. Thousands of French Asiatic subjects and protégés live in Siam; and inasmuch as large parts of French Indo-China were carved at various times out of Siam, and the inhabitants of these territories are therefore in fact closely assimilated to the Siamese, there seemed inherently no reason why they should be treated in Siam differently from the Siamese. Yet under the French treaty of 1856, as interpreted in practice and as reaffirmed in the treaty of 1904, apart from the northern provinces, all these Asiatics as French subjects and protégés were entitled to exemption from Siamese jurisdiction.

The right of land ownership in Siam also came into question. Under the early treaties foreign traders were given the right to acquire and own land

³³ Article VI (b). British and Foreign State Papers, Vol. 101, p. 289.

³⁴ Article III, subsect. 3. British and Foreign State Papers, Vol. 101, p. 409.

³⁵ British and Foreign State Papers, Vol. 90, pp. 66, 70.

³⁶ *Ibid.*, Vol. 92, p. 109.

and establish a permanent residence in Siam only in or near Bangkok; beyond a distance of 24 hours' journey from Bangkok foreign subjects were allowed neither to go without a passport nor to acquire land.³⁷ The provisions of these early treaties still remained in force; consequently, when portions of Siam were annexed to French Indo-China, the inhabitants, as well as other Laos, Cambodians and Annamites, resident in Indo-China, by virtue of their becoming French subjects or protégés lost the right to acquire land in the interior of Siam.

Because of the manifest absurdity of continuing to apply the provisions of the old treaties, framed for European traders, to Asiatic subjects and protégés, a special arrangement was worked out in a new French treaty signed on March 23, 1907,³⁸ dealing with the status of French Asiatic subjects in Siam. Under this treaty French Asiatic subjects and protégés were in general assimilated to Siamese. They were henceforth not to enjoy rights of extraterritoriality, but to be subject to Siamese courts and liable for the ordinary Siamese taxes. On the other hand, the treaty expressly provided³⁹ that they should be entitled henceforth in every part of Siam to all the rights and privileges enjoyed by Siamese subjects, particularly the right to acquire land and the right to go or settle anywhere in the kingdom. With regard to the jurisdiction of Siamese courts, a distinction was drawn between those Asiatics registered prior to the date of the treaty, henceforth known as "preregistered subjects," and those registered *after* 1907, known thenceforth as "postregistered subjects." The jurisdiction of the so-called "international courts" of the 1904 convention was extended so as to cover all pre-registered French Asiatic subjects and protégés throughout the whole of Siam, with the right of a French consul to be present at the trial and the right to evoke the case and try it himself should he see fit to do so; whereas all French Asiatic subjects and protégés registered *after* 1907 would henceforth be subject to the jurisdiction of the ordinary Siamese courts, without any rights of evocation. The régime of "international courts" was to end upon the promulgation and putting into force of all the Siamese codes of law.⁴⁰ As to French European citizens and subjects, however, the treaty of 1907 made no change. All French non-Asiatic citizens, subjects and protégés were to continue to enjoy rights of extraterritoriality as under the treaty of 1856; and the fiscal provisions of that treaty, including the three per cent. tariff restriction, were continued in full force and without limit of time.⁴¹

The Jurisdiction Protocol attached to the treaty contained two further provisions concerning the functioning of the international courts. One of

³⁷ See, for instance, British treaty of 1855, Art. IV.

³⁸ British and Foreign State Papers, Vol. 100, p. 1028.

³⁹ Article VI.

⁴⁰ *I.e.*, the Penal Code, the Civil and Commercial Codes, the Codes of Procedure, and the Law for Organization of Courts.

⁴¹ Art. VII.

them provided that judgments of appeal from international courts of first instance must bear the signature of two European judges,⁴² thus introducing into the treaty the requirement of European advisers sitting as judges in Siamese courts. The other provision concerned the right of evocation allowable to preregistered Asiatic subjects. It provided that the right should terminate as to all matters coming within the scope of Siamese codes or laws duly promulgated and put into force.⁴³ Under the French treaty of 1907, therefore, Siam regained judicial autonomy over French Asiatic subjects and protégés, but only for a heavy price. Siam had to grant to them every right and privilege enjoyed by Siamese subjects as such; she had to submit to the requirement of European legal advisers sitting in a Court of Appeals, at least for a limited period; and in addition the treaty was sealed by Siam's cession to France of further Siamese territory, *i.e.*, the territory of Battambang, Siem Reap and Sisophon. In spite of this heavy price, all French European subjects and protégés continued exempt from Siamese jurisdiction; and every one of the burdensome fiscal restrictions of the treaty of 1856 was continued in full force.

The French treaty of 1907 was followed by the British treaty of March 10, 1909.⁴⁴ Twenty-six years of actual experience with the Siamese administration of justice in the international court in the north under the treaty of 1883 had convinced the British that, under proper safeguards and guarantees, British interests could safely be entrusted to Siamese courts. The British treaty of 1909 therefore was built upon the principle of renouncing for a price the general rights of extraterritoriality for British subjects, but retaining such safeguards and guarantees as adequately to protect British interests. The treaty accordingly provided⁴⁵ that the system of international courts, together with the right of evocation, inaugurated for the north in the treaty of 1883, should be extended so as to cover all British subjects in Siam registered at the British consulate before March 10, 1909, the date of the treaty. All British subjects registered after 1909 were henceforth to be subject to the jurisdiction of the ordinary Siamese courts. As in the case of the French treaty of 1907, the right of evocation from international courts was to cease in all matters coming within the scope of codes or laws regularly promulgated and communicated to the British Legation at Bangkok, and the system of international courts was to come to an end upon the promulgation and coming into force of all the Siamese codes of law. Judgments on appeal from either the international courts or the ordinary Siamese courts must bear the signature of two European judges.

The most noteworthy feature introduced into the British treaty of 1909, however, related to the use of foreign judicial advisers. Section 4 of the Jurisdiction Protocol annexed to the 1909 treaty provided that "in all cases

⁴² Clause V.

⁴³ Clause IV.

⁴⁴ British and Foreign State Papers, Vol. 102, p. 126.

⁴⁵ Article V; Annex II, sec. 3.

whether in the international courts or in the ordinary Siamese Courts in which a British subject is defendant or accused, a European legal adviser shall sit in the Court of First Instance. In cases in which a British born or naturalized subject not of Asiatic descent may be a party, a European adviser shall sit as a judge in the Court of First Instance, and where such British subject is defendant or accused the opinion of the adviser shall prevail." In other words under the 1909 treaty no binding judgment could thenceforth be rendered against a European British subject except by a European judge or adviser. As a matter of fact the European adviser was in every sense a Siamese official; the Siamese Government freely chose him, paid him and controlled him. In practice the European advisers have been chiefly British and French, and they have generally acted quite independently of the desires and wishes of the British and French Legations. Nevertheless, the very fact that the treaty in absolute terms required their presence in Siamese courts caused a natural irritation; and to many it seemed that since Siamese judges could not of themselves render a binding judgment against European British subjects, Siam by the treaty of 1909 had gained the shadow rather than the substance of actual judicial autonomy. Moreover, no time-limit had been set to the provisions requiring the presence of European judicial advisers; the requirement was as irrevocable and unending as the provisions of the treaty of 1855. Furthermore, all the burdensome fiscal provisions of the old 1855 Treaty, including the three per cent. tariff, were continued in full force.⁴⁶

As was the case with the French treaty of 1907, Siam had to pay a heavy price for the treaty of 1909. Although in a sense Siam gained the abolition of British rights of extraterritoriality, she had to agree (1) that henceforth without end European legal advisers should sit in Siamese courts where British subjects were defendants or British non-Asiatic subjects were parties; and (2) that British subjects should henceforth "enjoy throughout the whole extent of Siam the rights and privileges enjoyed by the natives of the country, notably, the right of property, the right of residence and travel."⁴⁷ In addition a territorial compensation was exacted. Siam under the treaty ceded to Great Britain the States of Kelantan, Tringgam, Kedah, Perles and adjacent islands. Siam thus gave all that she had to give in return for a treaty which saddled her courts forever with foreign advisers and which still maintained unaltered the three per cent. tariff restriction. Without having gained autonomy, Siam had nothing left with which to bargain.

During the ten years that followed, with the exception of a treaty with Denmark⁴⁸ signed in 1913, following in general the terms of the British treaty of 1909, Siam was unable to make further progress on the road to judicial or fiscal autonomy. During all these years, however, Siam kept steadily improving her administration of justice and in countless ways manifesting an

⁴⁶ Article VII.

⁴⁷ Article VI.

⁴⁸ British and Foreign State Papers, Vol. 107, p. 750.

extraordinary progress. A Royal Code Commission, with the help of French advisers, was slowly and patiently preparing Siamese codes of law modeled on the best of the European codes. The Penal Code was completed and promulgated in 1908; following this, laws were prepared and codified on Civil Obligations, Things (Property), Partnership, Bankruptcy, Conflict of Laws, Family Registration, etc., etc. This work has been done in a most painstaking and scholarly manner; the Code Commission is still at work, and the final promulgation of all the codes will probably not take place for at least five years more. When it came to inducing the great Powers of Europe to surrender their treaty privileges, however, Siam's progress seemed to count for little. All her efforts to shake off the old treaty restrictions proved unavailing; and the goal of actual fiscal and jurisdictional autonomy seemed as far away as ever.

During the World War, Siam joined the Allied Powers fighting against Germany for the rights of small nations, and after interning the Germans resident in Siam she sent an expeditionary force to France composed largely of aëroplanists. At the end of the war Siam at Versailles appealed to her Allies on the strength of their oft-repeated assertions that the war was really fought to protect the rights of small nations and to remove international injustices that make for war. Although Siam's plea seemed lost on many there present, the justice of the appeal impressed itself strongly on the mind of President Wilson. He promised that America would be prepared to give Siam a new treaty and would as a matter of justice renounce without compensation her rights of extraterritoriality.

The result of President Wilson's action was the Siamese-American Treaty of 1920,⁴⁹ a treaty of epoch-making importance for Siam. It began by abolishing the right of extraterritoriality set up under the old treaty of 1856. All Americans were to be henceforth subject to the jurisdiction of the ordinary Siamese courts. To insure against possible injustice, however, the treaty provided that until five years after the promulgation of all the Siamese codes of law, America was to have the right to evoke any case in which an American was defendant, or accused, from any Siamese court, except the Supreme Court, and proceed to try the case in its own consular court. If the case were so evoked and tried in an American consular court, however, Siamese law was to prevail as to all matters coming within the scope of Siamese laws regularly promulgated. The treaty contained no mention of foreign legal advisers. In the British treaty of 1909 Great Britain had placed its reliance upon two different rights, each somewhat contradictory in its nature to the other, the right of evocation and the right of imposing European legal advisers upon Siamese courts. America refrained from demanding the latter right, which could not but prove a constant cause of irritation, and placed its reliance instead upon the right of evocation, en-

⁴⁹ U. S. Treaty Series, No. 655; British and Foreign State Papers, Vol. 113, p. 1168; Am. Jour. Int. Law, Vol. 16, Supp. p. 25.

larged in its scope but strictly limited in its duration so as to cease altogether five years after the promulgation of the Siamese codes of law. Because of Siam's confidence in the competency of her own courts and because of the time-limit set upon the right, Siam could willingly give to America such an enlarged right of evocation; as a matter of fact no case has ever been evoked under the American treaty.

So far as fiscal provisions were concerned, America recognized Siam's right to complete fiscal autonomy, and she agreed that the old fiscal restrictions should be removed and Siam should have the right to raise its tariff beyond the three per cent. limit against American goods as soon as all other treaty Powers having similar rights against Siam should come to a like agreement without price or compensatory benefit.

Of almost equal importance were the abrogation and termination provisions. The treaty of 1856 was abrogated in its entirety; and the new treaty was made terminable after ten years by either party upon giving one year's notice. A further all-important clause expressly provided that its termination should not have the effect of reviving any of the former treaties abrogated by the new one. So far as America was concerned, therefore, Siam was at last freed from the old extraterritorial restrictions. For this treaty America demanded and received no compensation whatsoever.

Once the American treaty was signed, Siam turned again to the European nations and asked them to follow America's lead, but for one reason or another results were not forthcoming. Great Britain replied that she had gone further in the treaty of 1909 than any other European nation; and that until other nations with substantial commercial interests had gone as far as she had any discussion of further treaty revision would appear to be premature. France made favorable replies; but as the months passed into years and nothing definite materialized hopes began to fade. Siam could not afford to cede any additional territory; and until she could succeed in separately persuading Great Britain, France, Italy, Holland, Belgium, Denmark, Norway, Sweden, Spain and Portugal each to surrender its fiscal rights voluntarily, and without compensatory benefit, Siam must remain helplessly and permanently bound by the old three per cent. tariff restriction in addition to the existing rights of extraterritoriality. The problem of how to induce ten European nations, some of whom had very substantial commercial interests in Siam, to give away their rights for nothing seemed insoluble; in spite of the American treaty, Siam seemed from a practical viewpoint no nearer her goal than before.

In 1923 a new treaty was negotiated with Japan closely following the American treaty of 1920. Under the Japanese treaty of 1898 Japan enjoyed the three per cent. Siamese tariff restriction only by virtue of a most-favored-nation clause,⁵⁰ whereas she enjoyed rights of extraterritoriality for a limited period by virtue of express grant.⁵¹ The new treaty, signed on March 10,

⁵⁰ Article VI.

⁵¹ Procol, Article I.

1924,⁵² abrogated the existing rights of extraterritoriality, subject, however, to the same rights of evocation as under the American treaty, and similarly provided that all rights of evocation would cease five years after the promulgation of the Siamese codes of law. Reciprocal most-favored-nation treatment with respect to import duties was continued as under the former treaty; and the new treaty was made terminable after ten years by either party. In substance Siam gained very little by this new treaty; for although under its terms Japanese subjects came immediately under the jurisdiction of Siamese courts, the right of evocation was made to extend until five years after the promulgation of the Siamese codes, whereas under the treaty of 1898 extraterritoriality with all its attendant rights was to cease absolutely with the promulgation of the codes. The chief value of the new Japanese treaty lay in its psychological effect upon the European nations. Siam could henceforth point to two of the great Powers as leading the way, and ask the remaining great Powers to follow in their lead.

Experience had shown, however, that Siam could not hope to induce the various European Powers voluntarily to surrender their existing rights through long-distance negotiations carried on in Bangkok. The force of local prejudice and the unavoidable lack of understanding on the part of European Foreign Offices of the true conditions in Siam made it evident that the ordinary and routine methods of negotiation could end only in failure. If success were possible it could come only through convincing the responsible officials in the Foreign Offices of each of the treaty Powers that wise statesmanship demanded the recognition of Siam's remarkable progress and stability and the consequent freeing of her from the shackles of extraterritoriality so that her further development might be unimpeded. Such results could come only through direct, personal work in Europe. Accordingly, His Majesty King Rama VI decided to send the Adviser in Foreign Affairs as Siam's representative on a roving commission to Europe to visit, one after another, the European Foreign Offices, seeking to persuade them to renounce their existing rights and, if he succeeded in this, to negotiate in conjunction with the Siamese Ministers in Europe new treaties.

In the meantime conversations with the French Foreign Office which had dragged along for over three years came to a head. From the outset exceptional difficulties had been encountered owing to the fact that a new French treaty necessarily involved many questions between Siam and her Eastern neighbor, French Indo-China, and because of the political situation in Paris, France was anxious to avoid giving offense to Indo-Chinese opinion by the relinquishment of Indo-Chinese rights against Siam. It was finally agreed that, except as to jurisdictional and fiscal rights, all questions peculiarly affecting Indo-China should be settled by a separate Indo-Chinese convention between Siam and France, negotiated after the main French treaty directly between Bangkok and Hanoi. The negotiations for the French

⁵² League of Nations, Treaty Series, Vol. 31, p. 187, Reg. No. 795.

treaty were then placed in the hands of the French Minister to Bangkok, who came from Paris to Bangkok late in 1923; and during 1924 a definite treaty text was worked out covering all jurisdictional and fiscal questions and matters of general French concern. As the treaty took definite form, however, innumerable complications arose, and protracted delays followed.

In the fall of 1924 Siam's Adviser in Foreign Affairs left Bangkok on his European mission. Upon his arrival in Paris, French negotiations were taken up afresh, new obstacles which had arisen were overcome, and in spite of difficulties which at one time threatened disaster, the treaty was finally signed on February 14, 1925. This treaty was in general based upon the lines of the American treaty of 1920, but modifications were introduced so as to leave undisturbed the existing position of Indo-Chinese in Siam. Under its terms the position of French Asiatic subjects and protégés remain as fixed by the treaty of 1907, *i.e.*, all those registered at French consulates prior to 1907, are to be tried in the so-called international courts, and all those registered subsequent to 1907 in the ordinary Siamese courts with no right of evocation. The system of international courts, with the attendant right of evocation, is to terminate, however, with the promulgation of all the Siamese codes of law. French citizens, who would naturally complain of treatment inferior to French Asiatic subjects and protégés, are also to be tried in the international courts, but with the right of evocation, as in the American treaty, until five years after the promulgation of all the Siamese codes. Subject to these restrictions, all French extraterritorial rights in Siam are abolished by the new treaty; and as the "International Court" is in reality a Siamese court with restrictions, and as all these restrictions have definite and fixed time limits, the treaty means in substance the grant of actual judicial autonomy to Siam.

The fiscal provisions of the earlier treaties are also abrogated. In Article XV, closely following the corresponding article in the American treaty, France recognizes Siam's right to complete fiscal autonomy, and agrees that Siam may raise its tariff on French goods beyond three per cent. as soon as all other treaty Powers having similar rights against Siam come to a like agreement voluntarily and without compensatory benefit. Until the conclusion of a new Franco-Siamese customs convention, each is to enjoy *le traitement le plus favorable* with respect to its goods imported into the other country. Questions directly involving the relationship between Siam and its neighbor, French Indo-China, are reserved for a separate Indo-Chinese convention. With the exception of provisions particularly relating to Indo-China, the treaty of 1856 and all subsequent treaties and conventions are abrogated. As in the American treaty, either party may after ten years denounce the new treaty on giving one year's notice, but it is expressly provided that such a denunciation will not have the effect of reviving any of the former treaties or conventions abrogated by the 1925 treaty. The new treaty, in a word, has freed Siam from the burden of French extraterritorial rights, and so far as

France is concerned, has restored to Siam her full fiscal autonomy, subject to a like grant by all other treaty Powers.

Interesting arbitration provisions were also inserted. A small nation is always at a disadvantage if international disputes are to be settled by war, especially if its territory adjoins a powerful neighbor. A sweeping arbitration clause was therefore inserted providing for the compulsory arbitration of all questions whatsoever, not excluding questions of vital interest or national honor. Both parties agree "in conformity to the principles announced in the Covenant of the League of Nations that in case controversial questions should arise between them in the future which cannot be settled by mutual agreement or by the method of diplomacy, they will submit the controversy to one or more arbitrators chosen by them, or in default of arbitration to the Permanent Court of International Justice. This Court will obtain jurisdiction by means of a common agreement between the two parties, or if agreement cannot be reached, by the simple request of either of them."⁵³

Immediately after the signature of the French treaty, negotiations were begun at The Hague for the conclusion of a new treaty with The Netherlands. This was a matter of particularly large importance to Siam because of the great number of Javanese settled in Siam, all claiming extraterritorial rights by virtue of their Dutch allegiance. The negotiations thus inaugurated were successfully completed on June 8, 1925, when a new treaty was signed at The Hague following almost word for word the American treaty of 1920. It abolished Dutch rights of extraterritoriality, acknowledged Siam's full right to fiscal autonomy, abrogated all prior treaties between the two countries, and was made terminable after ten years by either party upon giving one year's notice.

In the meantime Siam's representative had opened up negotiations in London for a new British treaty. In many respects this was the most important of all; for British trade is predominant in Siam and British interests there are far more substantial than those of any other country. Over eighty per cent. of Siam's export trade and some sixty-seven per cent. of her import trade is British. Also, Siam is bordered by British Burma on the west and the British Federated Malay States on the south, and Siam is consequently filled with British subjects. The difficulties of securing a new British treaty were, however, proportionate to its importance. The substantial amount of British imports into Siam made British merchants loath to surrender their privilege of the three per cent. tariff restriction; and the large value of British interests in Siam militated against Great Britain's being willing to surrender voluntarily her right of having European legal advisers sit in Siamese courts. The difficulty was increased by the fact that under the 1909 treaty British subjects had already been granted all the rights and privileges enjoyed by native Siamese. Siam had nothing more to give.

⁵³ Article II.

At the opening interview which Siam's representative had with Mr. Austen Chamberlain late in February, Mr. Chamberlain frankly discussed the difficulties of Great Britain's then granting to Siam full jurisdictional and fiscal autonomy, and confessed that the time seemed premature for such a step. Nevertheless, he listened attentively to the proposals of the Siamese representative, so framed as to uphold Siamese sovereignty and yet afford adequate protection to British interests; and when the true situation in Siam was brought home to him, he promised a reconsideration of the British policy toward Siam and the granting of a new treaty, provided the experts and leading representatives of the Foreign Office, the Indian Office, the Colonial Office, and the Board of Trade could be similarly convinced. As a result of the meetings which followed this interview, a new program of policy was formulated and a treaty finally agreed to, granting to Siam both jurisdictional and fiscal autonomy in the same broad terms as in the American treaty. Since Siam was essentially an agricultural country and would, therefore, never desire a tariff for protection against industrial products, British policy would content itself with Siam's agreeing to a provision limiting for a fixed period the Siamese import tariff to moderate, specified duties on those articles which constituted the bulk of British exports to Siam in return for Great Britain's granting to Siam the fiscal autonomy to which every sovereign nation should be entitled. Similarly, Great Britain would henceforth content itself with relying upon an enlarged right of evocation, terminating with the completion of the Siamese judicial reforms, in place of the requirement of European judicial advisers, which at best were Siamese officials and not under foreign control. In a word, Great Britain, seeing the picture more clearly, would henceforth discard certain fears, more theoretical than real, and choose to rest the future of British trade in Siam upon a large policy of cultivating Siamese good-will rather than upon ironclad treaty restrictions, bound to irritate while they lasted and eventually to be swept away by the inevitable march of progress.

In their main outlines the new British general and commercial treaties were modeled upon the American treaty. Except as to boundary provisions all former treaties were abrogated; the requirement of legal advisers was dropped; all British subjects were to be under the jurisdiction of the ordinary Siamese courts, with the right of evocation until five years after the promulgation of the Siamese codes of law; the grant of fiscal autonomy was made in the same words as in the American treaty; and the new treaties were made terminable by either party after ten years upon one year's notice. These treaties, containing Great Britain's renunciation of her former rights, were given without compensation or price. This statesmanlike move on the part of Great Britain the Siamese have not failed to appreciate. The British general and commercial treaties were signed on July 14, 1925; and a British treaty of general arbitration on November 25, 1925.

In the meantime negotiations were being pushed in other countries.

In late April, after various conferences at Lisbon, the Portuguese Ministry of Foreign Affairs had given its consent to the renunciation of Portuguese extraterritorial rights and had provisionally agreed with Siam's representative upon a treaty draft also closely following the text of the American treaty. In May, Madrid did the same; and in late June, as a result of conferences held at Copenhagen with the Danish Ministry of Foreign Affairs, Denmark also agreed to a new treaty draft, following, except for slight variations due to local conditions, the American treaty. Visits to Stockholm and to Oslo in July produced similar happy results with respect to Sweden and Norway. The new Spanish treaty was signed on August 8, 1925, and the new Portuguese treaty after a somewhat troubled time on August 14th. By this time the Scandinavian treaties were practically completed. Apart from them only the Italian and the Belgian treaties remained. Belgium had already agreed to a new treaty based on the American model, and the treaty text was being worked out in Bangkok. Siam's representative therefore proceeded direct from Madrid to Rome to take up negotiations for a new Italian treaty. Italian interests in Siam are comparatively small, and Italy felt satisfied with the existing arrangements under the old treaties. Nevertheless, after Premier Mussolini's help had been enlisted, obstacles were overcome, and by the end of August, 1925, a new Italian treaty was finally agreed upon, also closely based on the text of the American treaty. The Danish treaty was formally signed on September 1, 1925, the Swedish on December 19, 1925, the Italian on May 9, 1926, the Belgian on July 13, 1926, and the Norwegian on July 16, 1926. With the ratification⁵⁴ of these treaties Siam has at last won her long struggle for judicial and fiscal autonomy.

⁵⁴ The dates of the signatures and ratifications of the Treaties restoring autonomy to Siam are as follows: United States treaty, signed December 16, 1920, ratifications exchanged, September 1, 1921; Japanese treaty, signed March 10, 1924, ratifications exchanged, December 22, 1924; French treaty, signed February 14, 1925, ratifications exchanged, January 12, 1926; Netherlands treaty, signed June 8, 1925, ratifications exchanged, August 24, 1926; British general treaty and treaty of commerce and navigation, signed July 14, 1925, ratifications exchanged March 30, 1926; Spanish treaty, signed August 3, 1925, ratifications exchanged, July 28, 1926; Portuguese treaty, signed August 14, 1925, ratifications exchanged July 31, 1926; Danish treaty, signed September 1, 1925, ratifications exchanged, March 13, 1926; Swedish treaty, signed December 19, 1925, ratifications exchanged, October 25, 1926; Italian treaty, signed May 9, 1926, ratifications exchanged March 18, 1927; Belgian treaty, signed July 13, 1926, ratifications exchanged, March 25, 1927; Norwegian treaty, signed July 16, 1926, ratifications exchanged, February 9, 1927.

The registration numbers and the citations in the League of Nations Treaty Series are as follows: Japanese treaty, Reg. No. 795, Treaty Series, Vol. 31, p. 187; French treaty, Reg. No. 1055, Treaty Series, Vol. 43, p. 193; Netherlands treaty, Reg. No. 1323, Treaty Series, Vol. 56, p. 57; British general treaty, Reg. No. 1175, Treaty Series, Vol. 49, p. 29; British treaty of commerce and navigation, Reg. No. 1176, Treaty Series, Vol. 49, p. 51; British treaty of arbitration, Reg. No. 1487; Spanish treaty, Reg. No. 1303, Treaty Series, Vol. 55, p. 39; Portuguese treaty, Reg. No. 1304, Treaty Series, Vol. 55, p. 57; Danish treaty, Reg. No. 1131, Treaty Series, Vol. 47, p. 103; Swedish treaty, Reg. No. 1386; Italian treaty, Reg.

Under the provisions of the new treaties, Siam is now free of all the old fiscal restrictions, and has already put into force a new tariff increasing by very slight amounts the tariff on a few widely used commodities, so as to derive sufficient revenue to meet the current needs of the state. Extra-territoriality in Siam is now a thing of the past; and such jurisdictional restrictions as still remain, such as the right of evocation, will cease altogether five years after the promulgation of the Siamese codes. The old, one-sided, irrevocable treaties are gone; and in their place stand modern treaties, freely terminable after ten years by either party. For modern Siam a new era opens.

Progress, irresistible, cannot be stayed by the chains and shackles of unyielding treaty restrictions. If wise statesmanship fails to loosen or remove them, no matter what their strength, they will be forcefully shattered. The outstanding feature in the story of Siam's struggle for autonomy is the open-mindedness and liberality of the Foreign Offices of Europe during the period following the World War, once the issues were made really clear to them. What was inevitable sooner or later has come, not through blood and fighting, but through the method of large-visioned statesmanship and peace. As a result, instead of the folly and waste of war, gain will come to all.

No. 1436; treaty with Belgium and Luxemburg, Reg. No. 1468; Norwegian treaty, Reg. No. 1404.

TREATY BETWEEN THE UNITED KINGDOM AND SIAM FOR THE REVISION
OF THEIR MUTUAL TREATY ARRANGEMENTS AND PROTOCOL
CONCERNING JURISDICTION APPLICABLE IN SIAM
TO BRITISH SUBJECTS, ETC.¹

Signed at London, July 14, 1925; ratifications exchanged, March 30, 1926.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Siam, being desirous of maintaining and strengthening the relations of friendship which happily exist between them, have resolved to proceed to a revision of their mutual treaty arrangements, and have for that purpose named as their plenipotentiaries, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: The Right Honourable Joseph Austen Chamberlain, a Member of Parliament, His Majesty's Principal Secretary of State for Foreign Affairs; and

His Majesty the King of Siam: Phya Prabha Karawongse, His Envoy Extraordinary and Minister Plenipotentiary at the Court of His Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1

His Britannic Majesty recognises that the principle of national autonomy shall apply to the Kingdom of Siam in all that pertains to the imposition of customs duties on the importation and exportation of merchandise, to drawbacks and to transit and all other taxes and impositions; and, subject to the condition of equality of treatment with other nations in these respects, His Britannic Majesty agrees to assent to the imposition in Siam of customs duties higher than those established by existing treaties; on the further condition, however, that all other nations entitled to claim the benefit of special rates of customs duties in Siam assent to such higher duties freely and without the requirement of any compensatory benefit or privilege.

ARTICLE 2

The subjects of each of the high contracting parties shall have free access to the courts of justice of the other in pursuit and defence of their rights; they shall be at liberty, equally with native subjects and with the subjects or citizens of the most favoured nation, to choose and employ lawyers, advocates and representatives to pursue and defend their rights before such courts. There shall be no conditions or requirements imposed upon British subjects in connection with such access to the courts of justice in Siam, which

¹ British Treaty Series No. 7 (1926). Cmd. 2642.

do not apply to native subjects or to the subjects or citizens of the most favoured nation.

ARTICLE 3

The subjects of each of the high contracting parties shall be entitled in the territories of the other, provided that they comply with the laws and regulations in force, to engage in religious and charitable work, to open and conduct educational establishments, and to do anything incidental to or necessary for those purposes, upon the same terms as native subjects.

The subjects of each of the high contracting parties shall enjoy in the territories of the other entire liberty of conscience, and, subject to the laws and regulations in force, shall enjoy the right of private and public exercise of their religion.

ARTICLE 4

The vessels of war of each of the high contracting parties may enter, remain and make repairs in those ports and places of the other to which the vessels of war of other nations are accorded access; they shall there submit to the same regulations and enjoy the same honours, advantages, privileges and exemptions as are now or may hereafter be conceded to the vessels of war of any other nation.

ARTICLE 5

From the date of the exchange of ratifications of the present treaty and of the Treaty of Commerce and Navigation between the United Kingdom and Siam, concluded at London on the 14th July, 1925,² the following treaties, conventions and agreements between the two high contracting parties shall cease to be binding:

The treaty signed on the 20th June, 1826, together with the additional articles thereto ratified on the 17th January, 1827.

The Treaty of Friendship and Commerce signed at Bangkok on the 18th April, 1855, together with the agreement supplementary thereto, signed at Bangkok on the 13th May, 1856.

The Agreement for Regulating the Traffic in Spirituous Liquors, signed at London on the 6th April, 1883.

The Treaty for the Prevention of Crime and the Promotion of Commerce, signed at Bangkok on the 3rd September, 1883, together with the exchange of notes in 1896 extending the operation of that treaty in Siam.

The treaty concerning certain boundaries and the jurisdiction of Siamese courts, signed at Bangkok on the 10th March, 1909, together with annexes thereto.

Provided, however, that Articles 1, 2, 3 and 4, and Annexes I and III of the treaty signed at Bangkok on the 10th March, 1909, together with all provisions of any treaty in force at the time of the signature of the

² Printed *infra*, p. 43.

present treaty, which fix or delimit the boundary between Siam and British possessions or protectorates, shall remain in force.

ARTICLE 6

The provisions of the agreement on the registration of British subjects in Siam, signed at Bangkok on the 29th November, 1899, as extended in accordance with the note dated the 3rd October, 1910, from His Royal Highness the Minister for Foreign Affairs of Siam to His Britannic Majesty's Minister at Bangkok, remain in force and shall be applicable for the purposes of the present treaty and of the commercial treaty signed this day, except in so far as Articles 4 and 5 of the said agreement are inconsistent with the terms of the treaties signed this day or of the jurisdiction protocol attached to the present treaty.

The provisions of the said agreement relating to persons of Asiatic descent born within His Majesty's dominions and to their children born in Siam shall respectively extend to persons to whom the said agreement does not apply and who enjoy the protection of His Britannic Majesty by virtue of being citizens of or born in British protectorates, British-protected States, or territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, and to the children of such persons.

ARTICLE 7

The provisions of the present treaty which apply to subjects of the high contracting parties shall also be applicable to limited liability and other companies, partnerships and associations duly constituted in accordance with the laws of such high contracting parties.

ARTICLE 8

The provisions of the present treaty which apply to British subjects shall also be deemed to apply to all persons who both enjoy the protection of His Britannic Majesty and are entitled to registration in Siam in accordance with Article 6 of the present treaty.

ARTICLE 9

The stipulations of Articles 2, 3 and 4 of the present treaty shall not be applicable to India or to any of His Britannic Majesty's self-governing dominions, colonies, possessions or protectorates, unless notice is given by His Britannic Majesty's representative at Bangkok, of the desire of His Britannic Majesty that the said stipulations shall apply to any such territory.

ARTICLE 10

The terms of the preceding article relating to India and to His Britannic Majesty's self-governing dominions, colonies, possessions and protectorates shall apply also to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty.

ARTICLE 11

The present treaty shall come into effect on the date of the exchange of ratifications, and shall remain in force for ten years from that date.

In case neither of the high contracting parties shall have given notice to the other twelve months before the expiration of the said period of ten years of its intention to terminate the present treaty, it shall remain in force until the expiration of one year from the date on which either of the high contracting parties shall have denounced it.

It is clearly understood, however, that such denunciation shall not have the effect of reviving any of the treaties, conventions, arrangements or agreements abrogated by former treaties or agreements or by Article 5 hereof.

As regards India or any of His Britannic Majesty's self-governing dominions, colonies, possessions or protectorates, or any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, to which the stipulations of Articles 2, 3 and 4 of the present treaty shall have been made applicable under Articles 9 or 10, either of the high contracting parties shall have the right to terminate it separately on giving twelve months' notice to that effect. Such notice, however, cannot be given so as to take effect before the termination of the period of ten years mentioned in the first paragraph of this article except in the case of His Britannic Majesty's self-governing dominions (including territories administered by them under mandate) and the colony of Southern Rhodesia, in respect of which notice of termination may be given by either high contracting party at any time.

ARTICLE 12

This treaty shall be ratified and the ratifications thereof shall be exchanged at London as soon as possible.

In witness whereof the respective plenipotentiaries have signed the present treaty, and have thereunto affixed their seals.

Done in duplicate in the English language, at London, the 14th day of July, in the nineteen hundred and twenty-fifth year of the Christian era, corresponding to the 14th day of the 4th month in the 2468th year of the Buddhist era.

(L.S.) AUSTEN CHAMBERLAIN.

(L.S.) PRABHA KARAVONGS.

ANNEX

PROTOCOL CONCERNING JURISDICTION APPLICABLE IN THE KINGDOM OF SIAM
TO BRITISH SUBJECTS AND OTHERS ENTITLED TO BRITISH PROTECTION

At the moment of proceeding this day to the signature of the general treaty between His Majesty the King of Siam and His Britannic Majesty, the plenipotentiaries of the two high contracting parties have agreed as follows:

ARTICLE 1

The system of jurisdiction heretofore established in Siam for British subjects and the privileges, exemptions and immunities now enjoyed by British subjects in Siam as a part of, or appurtenant to the said system, shall absolutely cease and determine on the date of the exchange of ratifications of the above-mentioned treaty, and thereafter all British subjects, corporations, companies and associations, and all British-protected persons in Siam shall be subject to the jurisdiction of the Siamese courts.

ARTICLE 2

Until the promulgation and putting into force of all the Siamese codes, namely, the Penal Code, the Civil and Commercial Code, the Codes of Procedure and the Law for Organisation of Courts, and for a period of five years thereafter, but no longer, His Britannic Majesty, through his diplomatic and consular officials in Siam, whenever in his discretion he deems it proper so to do in the interest of justice, may, by means of a written requisition addressed to the judge or judges of the court in which such case is pending, evoke any case pending in any Siamese court, except the Supreme or Dika Court, in which a British subject, corporation, company or association, or a British-protected person is defendant or accused.

Such case shall then be transferred to the said diplomatic or consular official for adjudication, and the jurisdiction of the Siamese courts over such case shall thereupon cease. Any case so evoked shall be disposed of by the said diplomatic or consular official in accordance with English law, except that as to all matters coming within the scope of codes or laws of the Kingdom of Siam regularly promulgated and in force, the texts of which have been communicated to the British Legation in Bangkok, the rights and liabilities of the parties shall be determined by Siamese law.

For the purpose of trying such cases and of executing any judgments which may be rendered therein, the jurisdiction of the said diplomatic and consular officials in Siam is continued.

Should His Britannic Majesty perceive, within a reasonable time after the promulgation thereof, any objection to the said codes, namely, the Penal Code, the Civil and Commercial Code, the Codes of Procedure and the Law for Organisation of Courts, the Siamese Government will endeavour to take such objections into account.

ARTICLE 3

Appeals from judgments of courts of first instance in cases to which British subjects, corporations, companies or associations, or British-protected persons may be parties shall be adjudged by the Court of Appeal at Bangkok.

An appeal on a question of law shall lie from the Court of Appeal at Bangkok to the Supreme or Dika Court.

A British subject, corporation, company or association, or British-protected person, who is defendant or accused in any case arising in the prov-

inces, may apply for a change of venue, and should the court consider such change desirable the trial shall take place either at Bangkok or before the judge in whose court the case would be tried at Bangkok.

The provisions of this article shall remain in force so long as the right of evocation continues to exist in accordance with Article 2.

ARTICLE 4

In order to prevent difficulties which may arise from the transfer of jurisdiction contemplated by the present protocol, it is agreed as follows:

- (a) All cases instituted subsequently to the date of the exchange of ratifications of the above-mentioned treaty shall be entered and decided in the Siamese courts, whether the cause of action arose before or after the date of said exchange of ratifications.
- (b) All cases pending before the diplomatic and consular officials of His Britannic Majesty in Siam on the said date shall take their usual course before such officials until such cases have been finally disposed of, and the jurisdiction of the said diplomatic and consular officials shall remain in full force for this purpose.

In connection with any case coming before the said diplomatic or consular officials under clause (b) of this article, or which may be evoked by the said officials under Article 2, the Siamese authorities shall upon request by such diplomatic or consular officials lend their assistance in all matters pertaining to the case.

In witness whereof the undersigned plenipotentiaries have signed the present protocol and affixed thereto their seals.

(L.S.) AUSTEN CHAMBERLAIN.

(L.S.) PRABHA KARAVONGS.

TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED KINGDOM AND SIAM ¹

Signed at London, July 14, 1925; ratifications exchanged at London, March 30, 1926

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Siam, being desirous of facilitating and extending the commercial relations already existing between their respective countries, have determined to conclude a treaty of commerce and navigation with this object, and have appointed as their plenipotentiaries, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: The Right Honourable Joseph Austen Chamberlain, a Member of Parliament, His Majesty's Principal Secretary of State for Foreign Affairs; and

His Majesty the King of Siam: Phya Prabha Karawongse, His Envoy

¹British Treaty Series No. 8 (1926). Cmd. 2643.

Extraordinary and Minister Plenipotentiary at the Court of His Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1

There shall be between the territories of the two contracting parties reciprocal freedom of commerce and navigation.

The subjects of each of the two contracting parties, upon conforming themselves to the laws and regulations applicable generally to native subjects, shall have liberty freely and securely to come, with their ships and cargoes, to all places and ports in the territories of the other to which subjects of that contracting party are, or may be, permitted to come, and shall enjoy the same rights, privileges, liberties, favours, immunities and exemptions in matters of commerce and navigation as are, or may be, enjoyed by subjects of that contracting party.

ARTICLE 2

The subjects of either of the two contracting parties shall be entitled to enter, travel and reside in the territories of the other so long as they satisfy and observe the conditions and regulations applicable to the entry, travelling and residence of all foreigners.

ARTICLE 3

The dwellings, warehouses, factories and shops and all other property of the subjects of each of the two contracting parties in the territories of the other, and all premises appertaining thereto, used for purposes of residence or commerce, shall be respected. Except under the conditions and with the forms prescribed by the laws, ordinances and regulations for native subjects or for the subjects or citizens of the most favoured foreign country, no domiciliary visit shall be instituted and no search of any such buildings or premises be carried out, nor shall books, papers or accounts be examined or inspected.

ARTICLE 4

In so far as taxes, rates, customs duties, imposts, fees which are substantially taxes and any other similar charges are concerned, the subjects of each of the two contracting parties in the territories of the other shall enjoy, in respect of their persons, their property, rights and interests, and in respect of their commerce, industry, profession, occupation or any other matter, in every way the same treatment as the subjects of that party or the subjects or citizens of the most favoured foreign country.

ARTICLE 5

With respect to all forestry undertakings, and to searches for minerals (including oil) and mining operations (including oil wells), in Siam, British

subjects and companies, partnerships and associations established in His Britannic Majesty's territories shall be entitled to treatment not less favourable than that which is, or may hereafter be, accorded to Siamese subjects or the subjects or citizens of any other foreign country.

ARTICLE 6

The two contracting parties agree that in all matters relating to commercial or industrial pursuits or the exercise of professions or occupations, any privilege, favour or immunity which either of the two contracting parties has actually granted, or may hereafter grant, to the subjects or citizens of any other foreign country shall be extended, simultaneously and unconditionally, without request and without compensation, to the subjects of the other, it being their intention that the pursuit of commerce and industry in the territories of each of the two contracting parties shall be placed in all respects on the footing of the most favoured nation.

ARTICLE 7

The subjects of each of the two contracting parties in the territories of the other shall be at full liberty to acquire and possess every description of property, movable and immovable, which the laws of the other contracting party permit, or shall permit, the subjects or citizens of any other foreign country to acquire and possess. They may dispose of the same by sale, exchange, gift, marriage, testament or in any other manner, or acquire the same by inheritance, under the same conditions as are, or shall be, established with regard to subjects of the other contracting party, or the subjects or citizens of the most favoured foreign country.

They shall not be subjected in any of the cases mentioned in the foregoing paragraph to any taxes, imposts or charges of whatever denomination other or higher than those which are, or shall be, applicable to native subjects, or to the subjects or citizens of the most favoured foreign country.

They shall also be permitted to export their property and their goods in general, and shall not be subjected in these matters to any other restrictions or to any other or higher duties than those to which native subjects or the subjects or citizens of any other foreign country would be liable in similar circumstances.

In all these matters British subjects shall continue to enjoy in Siam the same rights and, subject to the provisions of Articles 4 and 8 of the present treaty, be subject to the same obligations as those which were provided for by Article 6 of the Anglo-Siamese treaty signed at Bangkok on the 10th March, 1909.

ARTICLE 8

In all that relates to compulsory military service and to the exercise of compulsory judicial, administrative and municipal functions, the subjects of one of the two contracting parties shall not be accorded in the territories

of the other less favourable treatment than that which is, or may be, accorded to subjects or citizens of the most favoured foreign country.

British subjects in Siamese territory shall be exempted from all compulsory military service whatsoever, whether in the army, navy, air force, national guard or militia. They shall similarly be exempted from all forms of compulsory manual labour (except in cases of sudden and unexpected occurrences involving great public danger, or where Siamese law gives the option of performing such labour in lieu of the payment of taxes) and from the exercise of all compulsory judicial, administrative and municipal functions whatever, as well as from all contributions, whether in money or in kind, imposed as an equivalent for such personal service, and finally from all forced loans, whether in money or in kind, and from all military exactions or contributions.

It is, however, understood that British subjects shall continue as heretofore to be liable to capitation tax.

ARTICLE 9

Articles produced or manufactured in the territories of one of the two contracting parties, imported into the territories of the other, from whatever place arriving, shall not be subjected to other or higher duties or charges than those paid on the like articles produced or manufactured in any other foreign country. Nor shall any prohibition or restriction be maintained or imposed on the importation of any article, produced or manufactured in the territories of either of the two contracting parties, into the territories of the other, from whatever place arriving, which shall not equally extend to the importation of the like articles produced or manufactured in any other foreign country.

The only exceptions to this general rule shall be in the case of the sanitary or other prohibitions occasioned by the necessity of securing the safety of persons, or the protection of animals or plants against diseases or pests, and of the measures applicable in the territories of either of the two contracting parties with respect to articles enjoying a direct or indirect bounty in the territories of the other contracting party.

ARTICLE 10

The following articles manufactured in any of His Britannic Majesty's territories to which this treaty applies, viz., cotton yarns, threads, fabrics and all other manufactures of cotton, iron and steel and manufactures thereof, and machinery and parts thereof, shall not, on importation into Siam, be subjected to any customs duty in excess of 5 per cent. *ad valorem* during the first ten years after this treaty has come into force.

It is understood that the articles to which this provision applies shall be those included in the groups III (I), III (C) and III (G), in Volume I of the Annual Statement of the Trade of the United Kingdom for 1923 compiled in the Statistical Office of the British Customs and Excise Department.

It is further understood that in regard to particular classes of the above-

mentioned articles customs duties may be imposed on a specific basis, provided that such specific duties do not in any case exceed in amount the equivalent of 5 per cent. *ad valorem*.

ARTICLE 11

Drawback of the full amount of duty shall be allowed upon the exportation from Siam of all goods previously imported into Siam from His Britannic Majesty's territories which, though landed, have not gone into consumption in Siam, or been subjected there to any process.

Nevertheless, His Britannic Majesty will not claim the advantages of this article in so far as exports of filled gunny bags are concerned, so long as the duty leviable on the importation of gunny bags into Siam from the territories of His Britannic Majesty shall not exceed 1 per cent. *ad valorem*.

ARTICLE 12

As soon as possible and in any case within six months of the coming into force of this treaty a supplementary convention shall be concluded between the two contracting parties which shall determine all matters incidental to the application of the duties specified in Articles 10 and 11 of this treaty.

ARTICLE 13

Any prohibitions or restrictions, whether by the creation or maintenance of a monopoly or otherwise, which are, or may hereafter be, imposed in Siam on the importation, purchase and sale of arms and ammunition shall not be so framed or administered as to prevent British subjects, firms and companies from obtaining adequate supplies of industrial explosives for use in their industries, it being understood that nothing in this article shall preclude the Siamese Government from enforcing such reasonable regulations as may be required in the interests of public safety.

ARTICLE 14

Each of the two contracting parties undertakes to inform the other of its intention to establish any monopoly with a view to securing that the monopoly shall interfere as little as possible with the trade between the territories of the two contracting parties.

In the event of the establishment of any such monopoly, the question of the payment of compensation, and the amount, if any, of such compensation which shall be paid to the subjects or companies, partnerships or associations of one of the two contracting parties established in the territories of the other, shall be settled by mutual agreement between the two contracting parties or by arbitration.

Nothing in this article shall require the payment of compensation in the event of the establishment of a monopoly relating to opium or other drugs included now or hereafter within the scope of the International Opium Agreement and of the International Opium Convention signed at Geneva on the 11th February, 1925, and the 19th February, 1925, respectively.

ARTICLE 15

Articles produced or manufactured in the territories of either of the two contracting parties, exported to the territories of the other, shall not be subjected to other or higher duties or charges than those paid on the like articles exported to any other foreign country. Nor shall any prohibition or restriction be imposed on the exportation of any article from the territories of either of the two contracting parties to the territories of the other which shall not equally extend to the exportation of the like articles to any other foreign country.

Nothing in this article shall apply to any prohibition or restriction imposed on the exportation of opium or other dangerous drugs included within the scope of the International Opium Convention signed at Geneva on the 19th February, 1925.

ARTICLE 16

Articles exported from Siam to His Britannic Majesty's territories shall not from the time of production to the date of shipment pay more than one impost, whether this be levied as an inland or transit duty or paid on exportation.

Where the Siamese Government has granted concessions which provide for payments to the government in respect of the product to which the concession relates on the understanding that an inland duty formerly levied should be withdrawn the payments in question shall be held to include an impost for the purpose of this article.

ARTICLE 17

Having regard to the provisions of Article 7 of the International Convention relating to the Simplification of Customs Formalities signed at Geneva on the 3rd November, 1923, the two contracting parties agree to take the most appropriate measures by their national legislation and administration both to prevent the arbitrary or unjust application of their laws and regulations with regard to customs and other similar matters, and to ensure redress by administrative, judicial or arbitral procedure for those who have been prejudiced by such abuses.

ARTICLE 18

Internal duties levied within the territories of either of the two contracting parties for the benefit of the State or local authorities on goods, the produce or manufacture of the territories of the other party, shall not be other or greater than the duties levied in similar circumstances on the like goods of national origin, provided that in no case shall such duties be more burdensome than the duties levied in similar circumstances on the like goods of any other foreign country.

ARTICLE 19

The two contracting parties agree, with respect to the treatment of commercial travellers and samples, to accord to each other all those facilities

and privileges which are set out in the International Convention relating to the Simplification of Customs Formalities signed at Geneva on the 3rd November, 1923.

Any further facilities or privileges accorded by either party to any other foreign country in respect of commercial travellers or samples shall be extended unconditionally to the other party.

ARTICLE 20

Limited liability and other companies, partnerships and associations formed for the purpose of commerce, insurance, finance, industry, transport or any other business, and established in the territories of either party, shall, provided that they have been duly constituted in accordance with the laws in force in such territories, be entitled, in the territories of the other, to exercise their rights and appear in the courts either as plaintiffs or defendants, subject to the laws of such other party.

Each of the two contracting parties undertakes to place no obstacle in the way of such companies, partnerships and associations which may desire to carry on in its territories, whether through the establishment of branches or otherwise, any description of business which the companies, partnerships and associations of any other foreign country are, or may be, permitted to carry on.

Limited liability and other companies, partnerships and associations of either party shall enjoy in the territories of the other treatment in regard to taxation no less favourable than that accorded to the limited liability and other companies, partnerships and associations of that party.

In no case shall the treatment accorded by either of the two contracting parties to companies, partnerships and associations of the other be less favourable in respect of any matter whatever than that accorded to companies, partnerships and associations of the most favoured foreign country.

ARTICLE 21

Each of the two contracting parties shall permit the importation or exportation of all merchandise which may be legally imported or exported, and also the carriage of passengers from or to their respective territories, upon the vessels of the other, and such vessels, their cargoes and passengers shall enjoy the same privileges as, and shall not be subject to any other or higher duties, charges or restrictions than national vessels and their cargoes and passengers, or the vessels of any other foreign country and their cargoes and passengers.

ARTICLE 22

In all that regards the stationing, loading and unloading of vessels in the ports, docks, roadsteads and harbours of the territories of the two contracting parties, no privilege or facility shall be granted by either party to vessels of any other foreign country or to national vessels which is not equally granted

to vessels of the other party from whatsoever place they may arrive and whatever may be their place of destination.

ARTICLE 23

In regard to duties of tonnage, harbour, pilotage, lighthouse, quarantine or other analogous duties or charges of whatever denomination levied in the name or for the profit of the government, public functionaries, private individuals, corporations or establishments of any kind, the vessels of each of the two contracting parties shall enjoy in the ports of the territories of the other treatment at least as favourable as that accorded to national vessels or the vessels of any other foreign country.

ARTICLE 24

The provisions of this treaty relating to the mutual concession of national treatment in matters of navigation do not apply to the coasting trade. In respect of the coasting trade, however, as also in respect of all other matters of navigation, the subjects and vessels of each of the contracting parties shall enjoy most-favoured-nation treatment in the territories of the other, in addition to any other advantages that may be accorded by this treaty.

The vessels of either contracting party may, nevertheless, proceed from one port to another port in the territories of the other contracting party, either for the purpose of landing the whole or part of their cargoes or passengers brought from abroad, or of taking on board the whole or part of their cargoes or passengers for a foreign destination.

It is also understood that in the event of the coasting trade of either party being exclusively reserved to national vessels, the vessels of the other party, if engaged in trade to or from places not within the limits of the coasting trade so reserved, shall not be prohibited from the carriage between two ports of the territories of the former party of passengers holding through tickets or merchandise consigned on through bills of lading to or from places not within the above-mentioned limits, and while engaged in such carriage these vessels and their passengers and cargoes shall enjoy the full privileges of this treaty.

ARTICLE 25

Any vessels of either of the two contracting parties which may be compelled by stress of weather or by accident to take shelter in a port of the territories of the other shall be at liberty to refit therein, to procure all necessary stores and to put to sea again, without paying any dues other than such as would be payable in a similar case by a national vessel. In case, however, the master of a merchant vessel should be under the necessity of disposing of a part of his merchandise in order to defray his expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any vessel of one of the two contracting parties shall run aground or be wrecked upon the coasts of the territories of the other, such vessel and all

parts thereof and all furniture and appurtenances belonging thereto, and all goods and merchandise saved therefrom, including any which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked vessel, shall be given up to the owners of such vessel, goods, merchandise, &c., or to their agents, when claimed by them. If there are no such owners or agents on the spot, then the vessel, goods, merchandise, &c., referred to shall, in so far as they are the property of a subject of the second contracting party, be delivered to the consular officer of that contracting party in whose district the wreck or stranding may have taken place, upon being claimed by him within the period fixed by the laws of that contracting party, and such consular officer, owners or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the like case of a wreck or stranding of a national vessel.

The two contracting parties agree, however, that merchandise saved shall not be subjected to the payment of any customs duty unless cleared for internal consumption.

In the case of a vessel being driven in by stress of weather, run aground or wrecked, the respective consular officer shall, if the owner or master or other agent of the owner is not present, or is present and requires it, be authorised to interpose in order to afford the necessary assistance to his fellow-countrymen.

ARTICLE 26

All vessels which, according to British law, are deemed to be British vessels, and all vessels which, according to Siamese law, are deemed to be Siamese vessels, shall, for the purposes of this treaty, be deemed British or Siamese vessels respectively.

ARTICLE 27

It shall be free to each of the two contracting parties to appoint consuls-general, consuls, vice-consuls and consular agents to reside in the towns and ports of the territories of the other to which such representatives of any other nation may be admitted by the respective governments. Such consuls-general, consuls, vice-consuls and consular agents, however, shall not enter upon their functions until after they shall have been approved and admitted in the usual form by the government to which they are sent.

The consular officers of one of the two contracting parties shall enjoy in the territories of the other the same official rights, privileges and exemptions as are or may be accorded to similar officers of any other foreign country.

ARTICLE 28

In the case of the death of a subject of one of the two contracting parties in the territories of the other, leaving kin but without leaving at the place of his decease any person entitled by the laws of his country to take charge of and administer the estate, the competent consular officer of the country to which

the deceased belonged shall, upon fulfilment of the necessary formalities, be empowered to take custody of and administer the estate in the manner and under the limitations prescribed by the law of the country in which the property of the deceased is situated.

It is understood that in all that concerns the administration of the estates of deceased persons, any right, privilege, favour or immunity which either contracting party has actually granted, or may hereafter grant, to the consular officers of any other foreign country shall be extended immediately and unconditionally to the consular officers of the other contracting party.

ARTICLE 29

The consular officers of one of the two contracting parties residing in the territories of the other shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of the former party. Provided that this stipulation shall not apply to subjects of the contracting party from whose local authorities assistance is requested.

ARTICLE 30

The subjects of each of the two contracting parties shall have in the territories of the other the same rights as subjects of that contracting party in regard to patents for inventions, trade-marks, trade names, designs and copyright in literary and artistic works, upon fulfilment of the formalities prescribed by law.

ARTICLE 31

As soon as possible after the preponderating proportion of the imports into Siam is obtained from countries whose subjects or citizens shall have become subject to Siamese law and jurisdiction (even though still enjoying privileges under the right of evocation), the Siamese Government will promulgate and bring into operation laws for the proper regulation of the matters dealt with in Article 30 and will also take the necessary measures for the regulation of merchandise marks by which imported products shall be protected from competition through false marks, false indications of origin, the short reeling of yarns, and the false lapping of piece-goods.

ARTICLE 32

It is hereby understood and agreed that none of the stipulations of the present treaty by which Siam grants most-favoured-nation treatment is to be interpreted as granting rights, powers, privileges or immunities arising solely by virtue of the existence of rights of exemption from Siamese jurisdiction, judicial, administrative or fiscal, possessed by other foreign countries.

ARTICLE 33

The two contracting parties agree that any dispute that may arise between them as to the proper interpretation or application of any of the provisions of

the present treaty shall, at the request of either party, be referred to arbitration, and both parties hereby undertake to accept as binding the arbitral award.

The court of arbitration to which disputes shall be referred shall be the Permanent Court of International Justice at The Hague, unless in any particular case the two contracting parties agree otherwise.

ARTICLE 34

The stipulations of the present treaty shall not be applicable to India or to any of His Britannic Majesty's self-governing dominions, colonies, possessions or protectorates unless notice is given by His Britannic Majesty's representative at Bangkok of the desire of His Britannic Majesty that the said stipulations shall apply to any such territory.

Nevertheless, goods produced or manufactured in India or in any of His Britannic Majesty's self-governing dominions, colonies, possessions or protectorates shall enjoy in Siam complete and unconditional most-favoured-nation treatment so long as goods produced or manufactured in Siam are accorded in India, or such self-governing dominion, colony, possession or protectorate, treatment as favourable as that accorded to goods produced or manufactured in any other foreign country.

ARTICLE 35

The terms of the preceding article relating to India and to His Britannic Majesty's self-governing dominions, colonies, possessions and protectorates shall apply also to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty.

ARTICLE 36

The provisions of the present treaty which apply to British subjects shall also be deemed to apply to all persons who both enjoy the protection of His Britannic Majesty and are entitled to registration in Siam in accordance with Article 6 of the general treaty signed this day.²

ARTICLE 37

The present treaty shall be ratified and the ratifications shall be exchanged at London as soon as possible. It shall come into force on the same day as the general treaty between the two contracting parties signed this day, and shall be binding during ten years from the date of its coming into force. In case neither of the two contracting parties shall have given notice to the other twelve months before the expiration of the said period of ten years of its intention to terminate the present treaty, it shall remain in force until the expiration of one year from the date on which either of the two contracting parties shall have denounced it.

² Printed *supra*, p. 38 at p. 40.

It is clearly understood that such denunciation shall not have the effect of reviving any of the treaties, conventions, arrangements or agreements abrogated by former treaties or agreements or by Article 5 of the general treaty signed this day.

As regards India or any of His Britannic Majesty's self-governing dominions, colonies, possessions or protectorates, or any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty to which the stipulations of the present treaty shall have been made applicable under Articles 34 and 35 either of the two contracting parties shall have the right to terminate it separately on giving twelve months' notice to that effect. Such notice, however, cannot be given so as to take effect before the termination of the period of ten years mentioned in the first paragraph of this article, except in the case of His Britannic Majesty's self-governing dominions (including territories administered by them under mandate) and the colony of Southern Rhodesia, in respect of which notice of termination may be given by either contracting party at any time.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereto their seals.

Done in duplicate in the English language, at London, the 14th day of July, in the nineteen hundred and twenty-fifth year of the Christian era, corresponding to the 14th day of the 4th month in the 2468th year of the Buddhist era.

(L.S.) AUSTEN CHAMBERLAIN.

(L.S.) PRABHA KARAVONGS.

NOTES EXCHANGED BETWEEN THE UNITED KINGDOM AND SIAM IN CONNECTION
WITH THE GENERAL AND COMMERCIAL TREATIES BETWEEN THE UNITED
KINGDOM AND SIAM, SIGNED AT LONDON ON JULY 14, 1925¹

London, July 14–September 15, 1925

No. 1.

The Siamese Minister to Mr. Austen Chamberlain

SIAMESE LEGATION, LONDON, *July 14, 1925.*

SIR:

In signing this day the general and commercial treaties between Great Britain and Siam,² I have the honour to assure you, by order of my government, that it is not the present intention of the Royal Siamese Government to impose any new, or increase any existing, export duties on teak, tin or rice.

I have, &c.

PRABHA KARAWONGS.

¹ British Treaty Series No. 9 (1926). Cmd. 2644. ² Printed *supra*, pp. 38 and 43.

No. 2.

*The Siamese Minister to Mr. Austen Chamberlain*SIAMESE LEGATION, LONDON, *July 14, 1925.*

SIR:

I have the honour to inform you that, when the time comes for the termination of the existence of the international or empowered courts, cases then pending before the said courts to which British subjects are parties will take their usual course before the said courts until such cases have been finally disposed of, and the jurisdiction of the said courts will remain in full force for this purpose.

I have, &c.

PRABHA KARAWONGS.

No. 3.

*The Siamese Minister to Mr. Austen Chamberlain*SIAMESE LEGATION, LONDON, *July 14, 1925.*

SIR:

In connection with the new treaties recently signed between our two governments, I have the honour to inform you, by order of my government, that, in order to protect British interests with respect to non-contentious probate matters under the régime effected by the new treaties, the Royal Siamese Government will be happy, after the ratification of the new treaties, to continue as heretofore the present system of consular probate jurisdiction with respect to non-contentious matters connected with estates of pre-registered British subjects and the present practice by which consular officers deal with non-contentious matters connected with estates of post-registered British subjects in accordance with Article 3 of the treaty of 1856 until such time as a new Siamese law shall be promulgated dealing with the question of succession and probate.

I have the honour to inform you further, that it is the intention of the Royal Siamese Government to proceed with the preparation and promulgation of the new law as soon as possible.

I have, &c.

PRABHA KARAWONGS.

No. 4.

*Mr. Austen Chamberlain to the Siamese Minister*FOREIGN OFFICE, *July 14, 1925.*

SIR:

His Majesty's Government are happy to think that, in signing the general and commercial treaties under which Siam obtains full jurisdictional and fiscal autonomy, they have made some contribution towards the free and prosperous development of Siam. Under the jurisdictional head, in particular, they have agreed to the arrangements embodied in the annex to the general

treaty, because they are convinced that in the near future nothing short of full autonomy in these matters will be consonant with the position of Siam among civilised nations. Moreover, they feel sure that these arrangements will strengthen the ties that so happily unite the two countries.

2. The existing ties between Siam and Great Britain are mutually advantageous in a peculiarly high degree by reason of two facts. More than 50,000 Indian British subjects pursue their avocations in Siam and contribute to the prosperity of the country. Furthermore, British trade with Siam is longer established and larger in volume than that of any other country. These facts give to Anglo-Siamese relations an especially close and cordial character which His Majesty's Government are sure that the Siamese Government fully appreciate and share the desire of His Majesty's Government to preserve. His Majesty's Government therefore feel very confident that the Siamese Government are not likely to take any steps calculated to prejudice the British interests arising from these considerations.

3. His Majesty's Government, without wishing to make any suggestion which might constitute an interference in the internal affairs of Siam, or to make the grant of the rights acquired by Siam under the new treaties subject to any conditions or restrictions, feel, nevertheless, in view of the magnitude of the interests involved, that it may be useful to state frankly certain apprehensions which they entertain. They do so at this moment when a new epoch of Siamese progress is beginning, with the object of averting possible future contingencies in which Siamese as well as British interests might suffer. It is possible that by the time the new codes have been promulgated there will not be available, either because the law school established by the Siamese Government has not been fully developed or for some other reason, a sufficient supply of fully trained Siamese judges to take the places of the present European legal advisers. Moreover, in any case, the fact that the new codes are based on Roman law must somewhat accentuate the difficulties of dealing with the large number of commercial cases involving British interests that come before the courts. The Siamese Government doubtless appreciate this position; and it therefore occurs to His Majesty's Government that they may well wish, should it be necessary in order to avoid possible future injury to the interests common to both countries, for a reasonable time after the coming into force of the various codes, and even, if necessary, after the disappearance of the right of evocation, to continue to employ a reasonable number of European legal advisers, of whom a proportion commensurate with British interests will be of British nationality; to continue to employ them in general in the same posts and in the same judicial capacities as at present, and to arrange that they shall exercise their powers in the same general manner as they have hitherto done (except in so far as the termination of the 1909 treaty may result in their judgments no longer prevailing in the cases provided for under that treaty); to retain the post of judicial adviser, which it will probably be impracticable

to fill with a lawyer of other than British nationality; and to employ as a teacher in the law school an English lawyer, preferably a barrister familiar with the Indian codes.

I have, &c.

AUSTEN CHAMBERLAIN.

No. 5.

The Siamese Minister to Mr. Austen Chamberlain

SIAMESE LEGATION, LONDON, *July 28, 1925.*

SIR:

The Royal Siamese Government desire to express their very sincere appreciation for the frank and friendly note of His Britannic Majesty's Government with reference to affairs in Siam under the new régime. The Royal Siamese Government have taken very careful note of the matters set forth in this communication, and they will endeavour, in respect of the several points set out in the letter from His Britannic Majesty's Government, to do everything possible to safeguard British interests in Siam, so far as this can be done without injury to the interests of the Royal Siamese Government.

In particular, the Royal Siamese Government readily give an assurance that it is their intention not to dispense with the services of European legal advisers upon the ratification of the new treaties, but to continue to employ them until such time after the promulgation of the codes as they may be convinced that the administration of justice by Siamese judges shows the further services of such European advisers to be unnecessary.

The Royal Siamese Government take this opportunity of reaffirming the principle as to the use of British law in commercial cases where no Siamese law exists. Until the promulgation of the civil and commercial code they intend to continue to act upon this principle, which was expressed in the following form in the letter of the 19th May, 1909, from Mr. Westengard to Mr. Beckett:

Where there is no existing Siamese statute or precedent the Siamese courts administer customary law. The custom in commercial matters where there are foreign communities is generally in accordance with English principles. Therefore, Siamese courts in such cases are guided by English statutes and cases as far as circumstances admit.

I have, &c.

PRABHA KARAWONGS.

No. 6.

Mr. Austen Chamberlain to the Siamese Minister

FOREIGN OFFICE, *August 5, 1925.*

SIR:

I have the honour to inform you that I have noted with gratification the contents of the three notes complementary to the general and commercial treaties signed on the 14th ultimo between Siam and Great Britain, which

you handed to me on that date, and which contain the following assurances: (1) That it is not the present intention of the Siamese Government to impose any new or increase any existing export duties on teak, tin or rice; (2) that, when the time comes for the termination of the existence of the international or empowered courts in Siam, cases then pending before those courts to which British subjects are parties will take their usual course before the courts until such cases have been finally disposed of, and that the jurisdiction of those courts will remain in full force for this purpose; and (3) that the Siamese Government agree to continue, after the ratification of the treaties, the present system of consular probate jurisdiction with respect to non-contentious probate matters until such time as a new Siamese law shall be promulgated dealing with the question of succession and probate, and that it is their intention to proceed with the preparation and promulgation of the new law as soon as possible.

2. I have also the honour to acknowledge the receipt of your note of the 28th ultimo, in reply to the note which I handed to you at the time of signature of the treaties, in which you inform me of the intentions of the Siamese Government in regard to the matters mentioned in my note, in particular the retention of the European judicial advisers, and give an assurance of the continued use of British law in commercial cases until the promulgation of the civil and commercial code.

I have, &c.

AUSTEN CHAMBERLAIN.

No. 7.

The Siamese Minister to Mr. Austen Chamberlain

SIAMESE LEGATION, LONDON, *August 12, 1925.*

DEAR MR. CHAMBERLAIN,

Sir Sydney Chapman, of the Board of Trade, has called my attention to the possible ambiguity of the word "tin" as used in my letter to you of the 14th July, 1925, concerning export duties on teak, tin and rice, and has raised the question of whether the assurance contained in this letter covers export duties on tin ore as well as on tin in its other forms.

I have pleasure in informing you that it is the understanding of my government that the word "tin" as used in this letter covers both tin and tin ore.

Believe me, &c.

PRABHA KARAWONGS.

No. 8.

Mr. Austin Chamberlain to the Siamese Minister

FOREIGN OFFICE, *September 15, 1925.*

MY DEAR MINISTER,

I thank you for your letter of the 12th ultimo informing me that it is the understanding of the Siamese Government that the word "tin" used in

your note of the 14th July concerning export duties on teak, tin and rice covers both tin and tin ore.

I am bringing this understanding to the attention of Sir Sydney Chapman and the various government departments concerned.

Believe me, &c.

AUSTEN CHAMBERLAIN.

ARBITRATION CONVENTION BETWEEN THE UNITED KINGDOM AND SIAM ¹

Signed at London, November 25, 1925; ratifications exchanged at London, February 2, 1927.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Siam, parties to the protocol establishing the Permanent Court of International Justice, signed at Geneva on the 16th December, 1920, being desirous of concluding a convention with a view of referring to arbitration all questions which they may consider possible to submit to that mode of settlement, have appointed as their plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: The Right Honourable Joseph Austen Chamberlain, a Member of Parliament, His Majesty's Principal Secretary of State for Foreign Affairs; and

His Majesty the King of Siam: Phya Prabha Karavongs, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of His Britannic Majesty;

¹ British Treaty Series No. 7 (1927). Cmd. 2813. In her new treaties Siam has obtained a noteworthy series of arbitration provisions with European nations. In Article II of the Franco-Siamese treaty of Feb. 14, 1925, both parties agree "in conformity to the principles announced in the Covenant of the League of Nations that in case controversial questions should arise between them in the future which cannot be settled by mutual agreement or by the method of diplomacy, they will submit the controversy to one or more arbitrators chosen by them, or in default of arbitration, to the Permanent Court of International Justice. This court will obtain jurisdiction by means of a common agreement between the two parties, or if agreement cannot be reached, by the simple request of either of them." (See League of Nations Treaty Series, Vol. 43, p. 193; Registration No. 1055). It will thus be seen that war is renounced by both countries as a method of settling disputes of every kind. The arbitral provision is sweeping and compulsory. More or less similar clauses were inserted in most of the other European treaties. Great Britain, however, declined to enter into such an engagement; and the British arbitration treaty, here printed, follows the older, conservative type, with the loophole of "vital interests," "independence," and "honour." It is to be remembered, however, that in Article 33 of the Treaty of Commerce and Navigation between Great Britain and Siam, "the two contracting parties agree that any dispute that may arise between them as to the proper interpretation or application of any of the provisions" of that treaty "shall, at the request of either party, be referred to arbitration, and both parties undertake to accept as binding the arbitral award. The court of arbitration to which disputes shall be referred shall be the Permanent Court of International Justice at the Hague, unless in any particular case the two contracting parties agree otherwise."—F. B. SAYRE.

Who, having communicated to each other their respective full powers, found in good and true form, have agreed as follows:

ARTICLE 1

Differences of a legal nature which may arise between the two contracting parties and which it may not have been possible to settle by diplomacy, in the absence of contrary agreement shall, at the request of either party, be referred to the Permanent Court of International Justice established by the protocol of December 16, 1920, in accordance with the procedure laid down in the statutes of that court and in the rules of court adopted thereunder, provided, nevertheless, that such differences do not affect the vital interests, the independence or the honour of the two contracting parties, and do not concern the interests of third parties. The contracting parties agree to accept the decision of the court as binding.

ARTICLE 2

The present convention, which shall be ratified, is concluded for a period of five years dating from the exchange of ratifications, which shall take place at London as soon as possible. In case neither of the two contracting parties shall have given notice to the other twelve months before the expiration of the said period of five years of its intention to terminate the present convention, it shall remain in force until the expiration of one year from the date on which either of the two contracting parties shall have denounced it.

In witness whereof the respective plenipotentiaries have signed the present convention and have affixed thereto their seals.

Done in duplicate in the English language at London, the twenty-fifth day of November in the nineteen hundred and twenty-fifth year of the Christian era, corresponding to the twenty-fifth day of the eighth month in the two thousand four hundred and sixty-eighth year of the Buddhist era.

(L.S.) AUSTEN CHAMBERLAIN.

(L.S.) PRABHA KARAVONGS.

